Supreme Court, U.S.
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No. 95-1120

In The
SUPREME COURT OF THE UNITED STATES
October Term, 1995

ALEX WAYNE BOLT,
Petitioner,

vs.

COURT OF APPEALS FOR THE NINTH CIRCUIT; UNITED STATES DISTRICT COURT — DISTRICT OF ALASKA; JUDGE JAMES K. SINGLETON; MAGISTRATE HARRY BRANSON; and STATE FARM FIRE AND CASUALTY COMPANY,
Respondents.

Petition For Writ Of Certiorari To The United States Court Of Appeals, Ninth Circuit

PETITION FOR WRIT OF CERTIORARI

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November 5, 1995

127 pp

QUESTIONS PRESENTED

1. Whether the Ninth Circuit Court of Appeals was arbitrary, capricious, and unreasonable in entering a dismissal order of petitioners' appeal by concluding the appeal ..."lacks merit" when the Ninth Circuit had not reviewed the merits of the appeal?

2. Whether petitioners' due process, equal access, and equal protection constitutional rights were violated by the Ninth Circuit's "dismissal" of petitioners' appeal without reviewing any aspects of the case below when substantive equitable and legal meritorious issues existed?

3. Whether the Ninth Circuit's dismissal order must be vacated and petitioners' right to appeal be upheld?

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Constitutional and Statutory Provisions

The Constitution of the United States provides in pertinent part:

ARTICLE V

> No person shall be held to answer for a capital, or otherwise infamous crime, except on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual services in time of War or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty or property, without due process of law; nor shall private property be taken for public use, without just compensation.

ARTICLE XIV, SECTION 1

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

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Respondents.

Petition For Writ Of Certiorari To The United States Court Of Appeals, Ninth Circuit

PETITION FOR WRIT OF CERTIORARI

Petitioner Alex Wayne Bolt respectfully prays that a writ of certiorari issue to review the order of dismissal by the United States Court of Appeals for the Ninth Circuit of petitioner's timely filed notice and supplemental notices of appeal on orders and judgments of the United States District Court, District of Alaska.

ORDERS AND DECISIONS BELOW

The United States Court of Appeals for the Ninth Circuit entered an order of dismissal on August 7, 1995, of petitioners' appeal that was timely filed on June 21, 1995.

JURISDICTION

The appeal was initially filed on March 27, 1995, on the district court's order of February 28, 1995, in case no. A91-478, which denied a motion for injunctive relief under 28 U.S.C. § 1292(a). The district court, by order of April 13, 1995, consolidated a separate injunctive complaint (case no. A95-130) into case A91-478. Subsequently, on May 23, 1995, the district court ordered dismissal of case no. A95-130, and issued a final judgment filed on May 23, 1995, which triggered the second supplemental appeal notice to be filed on June 21, 1995. An appeal in case A91-478 remians pending as 9CCA 95-35296. The jurisdiction of this court is invoked under 28 U.S.C. § 1254.

STATEMENT OF THE CASE

The initial case below (A91-478) arose out of an alleged declaratory judgment action filed by a non-existent plaintiff referred to as "State Farm Insurance Company, an Illinois corporation" ("Plaintiff"). The non-existent plaintiff's complaint alleged diversity of citizenship jurisdiction under federal statute 28 U.S.C. § 2201 and claimed the amount to exceed $50,000. Petitioner filed multiple motions to dismiss for lack of jurisdiction early in the litigation, which were ignored by the court. Summary judgment was granted to non-existent plaintiff on March 22, 1993. After summary judgment

was granted, petitioner filed multiple motions to vacate and dismiss for lack of jurisdiction which were denied.

Defendant (petitioner) Bolt filed a chapter 11 petition in bankruptcy on August 25, 1993, and filed formal notice to the district court on August 27, 1993. App. A86. The district court litigation was not stayed in accordance with the law, but, instead, was accelerated against defendants.

After petitioner bolt filed his chapter 11 petition, and prior to seeking any relief from stay, by order filed October 1, 1993, the district court substituted non-existent plaintiff to "State Farm Fire and Casualty Company," as a clerical error, and fined defendants $10,000 for not producing tens of thousands of discovery documents although all defendants-petitioners remained protected by the automatic stay. The district court, Judge Singleton, recognized the bankrupt status of petitioner, but ordered that it did not apply. App. A47.

Final judgment was entered in favor of State Farm Fire and Casualty Company on December 21, 1993. No relief from stay from the U.S. Bankruptcy Court had been sought or obtained. Defendants filed motions for re-hearing and vacating or amending judgment which were denied post final judgment. Substituted plaintiff, State Farm Fire and Casualty Company, filed motions for attorney fees which were denied at by the district court, without prejudice, to renew after relief from stay from bankruptcy court could be obtained.

Substituted plaintiff obtained a statutorily defective "*ex parte* relief from stay order" that was obtained without notice or hearing on March 2, 1994, and renewed its motion for attorneys' fees in district court. On April 20, 1994, the

December 21, 1993, final judgment was amended which awarded substituted plaintiff $99,514 attorney's fees. App.A67.

Defendants filed post-amended final judgment motions that were received by the district court but ordered returned to defendants without consideration. The district court ordered defendants not to file further pleadings, and the court ordered the clerk not to accept further pleadings by petitioner for himself or on behalf of other defendants. App. A68.

Defendants' post-judgment motions remained pending which precluded any effective notices of appeal. Six timely post-judgment motions remain pending and un-ruled on even today. Further, defendants were denied any access to the court after Judge Singleton ordered the clerk not to accept any more pleadings from defendants/petitioners.

Defendant Bolt, and arguably all other "related to" defendants, were protected by the automatic stay when the December 21, 1993, final judgment was entered. The district court made no certification under Fed.R.Civ.P. 54(b) to allow appeals by any defendant.

In October 1994, substituted plaintiff initiated judgment debtor hearings and obtained restraining orders over all defendants' assets to cover their award of full attorney's fees. Defendants opposed and filed for injunctive relief. The district court refused to hear defendants' motion for injunctive relief and ordered the arrest of petitioner. Petitioner filed a notice of appeal of the arrest order before his arrest. Notwithstanding, petitioner was falsely arrested and confined out of a motion by substituted plaintiff, and by the extreme bias and prejudice of Judge Singleton and Magistrate Branson, who had no jurisdiction in the case from the outset, as had been argued in

petitioner's motion for injunctive relief. App. 72-73. After release from jail and confinement, judgment-debtor proceedings accelerated under the express orders of Magistrate Branson. Judge Singleton finally issued an order which treated defendants' motion for injunctive relief as a motion for reconsideration of the entire case in which he had previously entered final judgment and an amended final judgment.

The district court would not accept the notices of appeal filed by other defendants which deprived defendants of access and equal protection of the law. The district court, without jurisdiction, continues at this time to proceed in the judicially infirm judgment-debtor hearings against all defendants. The appeal below was initially prosecuted under the district court's refusal to hear defendants' motion for injunctive relief filed on January 23, 1995, 9CCA 95-35296.

Because the judgment-debtor proceedings were accelerating, petitioner filed a complaint for injunctive and declaratory relief in a separate case, no. A95-130, App. A55, which was summarily consolidated into case A91-478 by Judge Singleton. App. A51. Judge singleton refused recusal, demand for jury trial, and ordered defendant Bolt to show cause why he should not be fined for filing the new complaint. Judge Singleton summarily rejected defendants' show cause pleading, fined Bolt $2,500 with a threat of jail again if the fine was not paid by June 5, 1995. App. A49. Further, although Judge Singleton had previously consolidated A95-130 into A91-478, which was on appeal under 28 U.S C. § 1292(a), Judge Singleton immediately dismissed case A95-130 (the injunctive relief complaint) with prejudice. App. A4. Judge Singleton then had the Ninth Circuit issue a pre-filing

review order which effectively denied petitioner any right to appeal. The Ninth Circuit court then denied defendant Bolt the right to appeal by the dismissal order filed August 7, 1995. App. A1.

The district court has frozen all petitioner's assets by issuing a restraining order on motion by State Farm Fire and Casualty Company to cover their void award of attorney's fees.

REASONS FOR GRANTING THIS PETITION

By order filed August 7, 1995, the Ninth Circuit dismissed petitioners' appeal because ..."the appeal lacks merit, it shall not be permitted to proceed." App. A1. The Ninth Circuit had not reviewed any issues being appealed. The dismissal of petitioners' appeal by the Ninth Circuit, without having reviewed the meritorious issues is unconstitutional, in conflict with well settled law, and substantially departs from the accepted and usual course of judicial proceedings and requires a writ of this court calling for an exercise of this court's power of supervision and vacation of the Ninth Circuit dismissal order and an order allowing petitioners to prosecute their appeals in this matter.

The Ninth Circuit dismissal order of August 7, 1995, denied petitioners appellate rights of meritorious claims and issues then pending on appeal. Such denial of petitioners' appeal rights is unjust, unfair, and unconstitutional and must be vacated. Petitioners request a summary disposition and order to vacate the Ninth Circuit's August 7, 1995, dismissal order and permit petitioners to prosecute their appeal on the merits of the issues included but not limited to those below. Petitioners

remain in chapter 11 and remain protected by the automatic stay provisions of 11 U.S.C. § 362(a).

I. The Ninth Circuit was arbitrary, capricious, and unreasonable in dismissing petitioner's appeal before the merits of the appeal were considered.

There is no record in the Ninth Circuit other than the notices of appeal and accompanying orders and judgments, on which the Ninth Circuit could have made their determination to dismiss the appeal. Such dismissal occurred in behind-the-scene maneuvering by and between the district court and the Ninth Circuit to deny petitioner — a *pro se* litigant out of necessity and not by choice — his day in court. The Ninth Circuit's arbitrary dismissal violates petitioners constitutional due process of law rights, equal access, and equal protection. Petitioner has the right, as an aggrieved person, to appeal and seek redress. Dismissal of petitioner's appeal violates Article V and Article XIV, Section I of the United States Constitution. Insurance policy property rights have been improperly taken by the district court, which had no jurisdiction and without due process, which by the Ninth Circuit dismissal order denies petitioner the right to appeal. The Ninth Circuit's dismissal order also violates procedural rules which "must satisfy contemporary notions of due process." Burnham v. Superior Court of Cal., 495 U.S. 604, 630 (1990). The Ninth Circuit's dismissal order is so "fundamentally unfair" as to deny due process of law.

The Ninth Circuit's dismissal order is harsh, unwise and punitive, and unsupportable. Punitive damages under Alaska law must be supported by "clear and convincing evidence."

Alaska Statute Ann. § 09.17.020 (Supp. 1990). "Both liberty and property are specifically protected by the fourteenth amendment against any state deprivation which does not meet the standards of due process, and this protection is not to be avoided by the simple label a state chooses to fasten upon its conduct on its statutes. Giaccio v. Pennsylvania, 382 U.S. 399, 402 (1966). The Ninth Circuit summarily dismissed petitioner's appeal without discussion, show cause pleadings, or appellate briefs, which has denied "fundamental justice" to petitioner. The concept of "fundamental justice" entered the due process lexicon not as a description of what due process entails in general, but as a description of what it entails when traditional procedures are dispensed with. As the Court reiterated in Twining v. New Jersey, 211 U.S. 78 (1908),

> "consistently with the requirements of due process, no change in ancient procedure can be made which disregards those fundamental principles, to be ascertained form time to time by judicial action, which have relation to process of law and protect the citizen in his private right, and guard him against the arbitrary action of government."

See Pacific Mutual Life Inc. v. Haslip, 499 U.S. 1, 33.

The due process guarantee "includes the right to be heard where liberty or property is at stake in judicial proceedings. Ownby v. Morgan, 256 U.S. 94, 111 (1921).

The Ninth Circuit's denial of petitioner's right to appeal his liberty (arrest and confinement) and property losses (insurance rights which are estate property) denied petitioner of

due process and is unconstitutional. The dismissal order must be vacated and petitioner allowed to proceed with his appeals.

II. Petitioners are entitled to the relief sought in the injunctive complaint, case no. A95-130-CV. and the corresponding right to appeal its dismissal.

The crux of the complaint in A95-130 against the judiciary defendants are for injunctive relief and for declaratory relief. App. A55. A long line of U.S. Supreme Court precedents acknowledges that, generally, a judge is immune from a suit for money damages. See, e.g., Forrester v. White, 484 U.S. 219 (1988); Cleavinger v. Saxner, 474 U.S. 193 (1985); Dennis v. Sparks, 449 U.S. 24 (1980); Supreme Court of Va. v. Consumers Union of United States, Inc., 446 U.S. 719 (1980); Butz v. Economou, 438 U.S. 478 (1978); Stump v. Sparkman, 438 U.S. 349 (1978); Pierson v. Ray, 386 U.S. 547 (1967).

The Supreme Court, however, has recognized that a judge is not absolutely immune from criminal liability, Ex parte Virginia, 100 U.S. at 348-349 (1880), or from a suit or prospective injunctive relief, Pulliam v. Allen, 466 U.S. at 536-543 (1984), or from a suit for attorney's fees authorized by statute, id., at 543-544. See Mireles v. Waco, 502 U.S. 9 (1991).

The U.S. Supreme Court has made clear that the immunity is overcome in only two sets of circumstances. First, a judge is not immune from liability for non-judicial actions, i.e., actions not taken in the judge's judicial capacity. Forrester v. White, 484 U.S. at 227-229; Stump v. Sparkman, 435 U.S. at 360. Second, a judge is not immune for actions,

though judicial in nature, taken in the complete absence of all jurisdiction. Id., at 356-357; Bradley v. Fisher, 13 Wall. 335, 351 (1872). In Pulliam v. Allen, 466 U.S. 522 (1984), the U.S. Supreme Court reaffirmed the rule that judges are immune from suites for damages, but holds that they may be sued for injunctive and declaratory relief and held personally liable for money judgments in the form of costs and attorneys' fees merely on the basis of erroneous judicial decisions. When the district court entered the alleged final judgment against petitioner on December 21, 1993, petitioner and other defendants were was fully protected by 11 U.S.C. § 362(a), making the alleged final judgment void ab initio. See Celotex v. Edwards, 115 S.Ct. 1493 (1995). Judge Singleton and Magistrate Branson had acted without jurisdiction, making their acts non-judicial. See Forrester v. White, 484 U.S. at 227-229, and Stump v. Sparkman, 435 U.S. at 360. Further, Judge Singleton's acts were taken in the complete absence of all jurisdiction. Id., at 356-357 and Bradley v. Fisher, 13 Wall. at 351. It follows that all acts by Magistrate Branson have been summarily taken without jurisdiction, which bars any and all claims of immunity. Judge Singleton's "ministerial" act of entering alleged final judgment without any jurisdiction also raises the question of judicial immunity verses a non-judicial function and a debatable bar to immunity. Ex parte Virginia, 100 U.S. at 348-349.

No valid final judgment or amended final judgment or other orders were entered in case no. A91-478 for lack of jurisdiction. Issues relative to jurisdiction were briefed and filed multiple times without acknowledgement or action by the district court. Petitioners' Rule 60(b) motion, and related

motions to amend and vacate the void judgments, were not only summarily rejected by the district court, but intentionally purged from the record and mailed back to petitioner, by the district court's order of May 4, 1994. Such judicial acts denied petitioners access to the district court and denied petitioners their constitutional rights as aggrieved persons, and denied petitioner equal protection and equal access to the courts.

Petitioners were undeniably protected by 11 U.S.C. 362(a), at the time the district court entered final judgment on December 21, 1993, which caused the district court to lack jurisdiction to enter orders and judgments, and to deprive petitioner of insurance property rights. Such violations of the bankruptcy code and violations of clear legal precedent, which include decisions of the Ninth Circuit and the U.S. Supreme Court, gave petitioner causes of action as filed in case no. A95-130 for injunctive relief in order to stop ongoing irreversible injury, harm, and damages occurring under void orders and judgments of the district court.

Petitioner's injunctive relief complaint, filed in case no. A95-130, is real, justified, and built on causes of action as a matter of law, and permitted under the U.S. Constitution, Alaska Constitution, statutes and law which is well settled. Petitioners should not have been legally or equitably held in contempt, fined, and incarcerated by asserting his causes of action on constitutionally protected rights, statutes, and legal precedent. No part of the complaint in case no. A95-130 can be considered frivolous or in violation of court orders which were void for lack of jurisdiction and entered as a result of documented bias and prejudice of the court against petitioner. Rather, petitioner is entitled to redress and injunctive relief.

III. **Petitioner has meritorious issues to appeal.**

Petitioners have meritorious issues on appeal which should be freely heard. Some of petitioners' issues on appeal are identified below, which clearly demonstrate an equitable and legal basis to prevail on appeal. Most issues on appeal would be decided as a matter of law. This court should order the Ninth Circuit to allow petitioners to prosecute their appeals, which include legal issues below and other related issues.

a. **No final appealable judgment has been entered in the U.S. District Court Case (A91-478).**

There has been no final appealable judgment entered in the declaratory judgment action. A judgment is final and appealable under 28 U.S.C. § 1291 only if it "ends the litigation on the merits and leaves nothing for the court to do but execute the judgment." Gulfstream Aerospace Corp. v. Mayacamas Corp., 485 U.S. 271, 275, 108 S.Ct. 1133, 1136, 99 L.Ed.2d 296 (1988) (quoting Catlin v. United States, 324 U.S. 229, 233, 65 S.Ct. 631, 633, 89 L.Ed. 911 (1945)). See also Sussex Drug Products v. Kanasco, Ltd., 920 F.2d 1150, 1153 (3rd Cir. 1190). Nevertheless, Fed.R.Civ.P. 54(b) provides for special express certifications of finality which permit "entry of a final judgment as to one or more but fewer than all of the claims or parties". But "[a]bsent special certification, a judgment is final only if it disposes of all of the claims of all of the parties." Matter of Vitreous Steel Products Co., 911 F.2d 1223, 1230 n.3 (7th Cir. 1990).

The U.S. District Court litigation, initiated by a non-existent entity, does not bar petitioner's subsequent complaint for injunctive relief on res judicata grounds. In order to bar a later suit under the doctrine of res judicata, an adjudication

must be within a court's jurisdiction and, (1) involve the same "claim" as the later suit, (2) have reached a final judgment on the merits, and (3) involve the same parties or their privies. Blonder-Tongue Laboratories v. Univ. of Ill. Found, 402 U.S. 313, 323-24, 91 S.Ct. 1434, 1439-40, 28 L.Ed.2d 788 (1971); Davis Wright & Jones v. National Union Fire Ins. Co., 709 F.Supp. 196 (W.D.Wa. 1989), aff'd 897 F.2d 1021 (9th Cir. 1990). See also Nordhorn v. Ladish, 9 F.3d 1402 (9th Cir. 1993). Neither can a valid appeal be filed without a valid final judgment entered within the court's jurisdiction.

b. **Orders and judgments entered in the declaratory judgment action are void ab initio.**

Notwithstanding other appealable issues, all orders and judgments entered by the district court in the declaratory judgment action subsequent to August 25, 1993, which includes the alleged final judgment and amended judgments, are void ab initio. The automatic stay under 11 U.S.C. § 362 suspends any non-bankruptcy court's authority to continue judicial proceedings then pending against the debtor or related parties or related issues. See Celotex Corp. v. Edwards, 115 S.Ct. 1493 (1995). This is so because § 362's stay is mandatory and "applicable to all entities", including state and federal courts. 11 U.S.C. § 362(a). See Boynton v. Ball, 121 U.S. 457, 466-67, 7 S.Ct. 981, 984, 30 L.Ed. 985 (1887) ("where the bankruptcy proceedings are brought to the attention of the court in which a suit is being prosecuted against a bankrupt, that court shall not proceed to final judgment until the question of his discharge shall have been determined."). See In re Highway Truck Drivers & Helpers Local 107, 888 F.2d at 299 n. 8 (if state court proceeds in violation of stay, "such

proceedings would have been in excess of the state court's authority and subject to collateral attack"); Ellis v. Consolidated Electric Corp., 711 F.2d 60, 61 (9th Cir. 1983) ("the automatic stay of proceeding is applicable at both the trial and appellate levels"), cert. denied, 478 U.S. 1021, 106 S.Ct. 3335, 92 L.Ed.2d 740 (1986); Kommanditselskab Supertrans v. O.C.C. Shipping, Inc., 79 B.R. 534, 540 (S.D.N.Y. 1987) (if stay applies, "the district court's power to adjudicate the case is suspended pending the outcome of the bankruptcy proceedings").

The automatic stay's effect on judicial proceedings against the debtor does not depend upon whether the court finds for or against the debtor. Ellis v. Consolidated Electric Corp., 894 F.2d 371, 373 (10th Cir. 1990). Once triggered, the automatic stay of an action pending against the debtor in district court "continues until the bankruptcy case is closed, dismissed, or discharge is granted or denied, or until the bankruptcy court grants some relief from the stay. 11 U.S.C. § 362(a), (c)(2), (d), (e), (f)." Pope v. Manville Forest Products Corp., 778 F.2d 238, 239 (5th Cir. 1985). See also In re De Jesus Saez, 721 F.2d 848, 851-2 (1st Cir. 1983) (stay terminates when Chapter 13 petition is dismissed).

Absent relief from the stay, judicial actions and proceedings against the debtor are void ab initio. Kalb v. Feuerstein, 308 U.S. 433, 438-40, 60 S.Ct. 343, 346, 84 L.Ed. 370 ("the action of the ... Court was not merely erroneous but was beyond its power, void, and subject to collateral attack"). Res judicata grounds do not rise in subsequent litigation when no valid final judgment has been

entered previously. Without jurisdiction, no valid orders or judgments can be entered.

c. **All insured defendants-appellants are protected by the automatic stay provisions of 11 U.S.C. § 362.**

The automatic stay provisions established in 11 U.S.C. § 362 suspends any non-bankruptcy court's authority to continue judicial proceedings then pending or "related" to proceedings against the debtor. See Celotex v. Edwards, 115 S.Ct. 1493, 1498-99. All defendants-appellants' interests are so intimately intertwined with those of the debtor, Wayne Bolt that the automatic stay provisions of 11 U.S.C. § 362 applied to all defendants. Clearly, continued proceedings and the outcome of the declaratory judgment action, assuming it was a valid controversy and case, pending in the district court at the time appellant Bolt filed his chapter 11 petition would have substantial and material effect on Bolt's bankruptcy estate.

Bolt's equity ownership and insured interests in other defendants and their respective insurance policies, either directly or indirectly, would alter debtor Bolt's rights, liabilities, options, or freedom of action with major potential impacts on his bankrupt estate. Insured defendant Bolt, his wife, Ann Bolt, as a marital estate, and the estates' equity interest in the other defendants was to "related" to Bolt to extend the stay to all insured defendant parties. Clearly, the results of "Spokane," "Borbe," "Ptarmigan," and the declaratory judgment action would have material consequences on Bolt's estate.

The U.S. Supreme Court in Celotex Corp v. Edwards, 115 S.Ct. 1493, 1498-1499 (1995) has clearly settled the

automatic stay issue for "related" parties and lack of jurisdiction in non-bankruptcy courts.

d. **The ex parte relief from stay order issued to State Farm Fire and Casualty Company subsequent to entry of final judgment is statutorily defective.**

State Farm Fire and Casualty Company obtained a statutorily defective ex-parte relief from stay from the U.S. Bankruptcy Court after final judgment was entered in the declaratory judgment action.

Plaintiff's ex parte relief from stay is statutorily defective. 11 U.S.C. § 362(d) requires "notice and a hearing" prior to a grant of any relief from stay. After plaintiff obtained the "void" final judgment without relief from stay, plaintiff filed a motion for relief from stay in the U.S. Bankruptcy Court to seek an amended final judgment for attorney's fees. Appellant Bolt, who had filed chapter 11, opposed the motion for relief from stay. Plaintiff then prepared and walked through an ex parte order of relief from stay. Appellant Bolt was only noticed of the relief order after it was entered. The relief from stay order is void since it was entered without hearing as required under 11 U.S.C. § 362(d).

e. **Court orders are voidable when entered out of bias and prejudice and when entered without jurisdiction**

When petitioners attempted to file post-judgment motions in case no. A91-478 to vacate the orders and judgments that were void ab initio, the district court — Judge Singleton — entered orders denying petitioner access to the court, and returned to petitioner all pleadings and motions petitioner filed to vacate void orders. Judge Singleton purged them from the official court docket record. Such acts violated

respondent's civil rights under 42 U.S.C. § 1981-1983, the U.S. Constitution and state constitution, plus well-settled law, giving an aggrieved person access to the courts, equal protection under the law, and constitutional due process.

Petitioner and other defendants in A91-478 moved to recuse Judge Singleton under 28 U.S.C. § 144, which he summarily rejected almost without comment, except to justify non-recusal on the doctrine of "extrajudicial" acts, which conflicts with Liteky v. United States, 114 S.Ct. 1147, which states recusal is justified when a judge's orders are so extreme to display clear inabilty to render fair judgment. This limitation on the extrajudicial source doctrine applies both to motions brought pursuant to 28 U.S.C. § 455 and affidavits of prejudice filed pursuant to 28 U.S.C. § 144. Id. 114 S.Ct. at 1155-57.

The district court, in granting summary judgment to State Farm on coverage while the many material issues of material fact, including issues on waiver and estoppel, bad faith, and material factual disputes, was "so extreme as to display clear inability to render fair judgment." Id. 114 S.Ct. at 1155. This court's "extreme" orders denying respondent the right to file Rule 60(b) pleadings and related motions to vacate void orders and judgments also demonstrates this court's clear inability to render fair, unbiased, and unprejudicial treatment to respondent.

As a matter of law, Judge Singleton and Magistrate Branson have demonstrated bias and prejudice, which qualifies for immediate recusal under 28 U.S.C. §§ 144 and 455.

Amadon v. State, 604 P.2d 575 (Alaska 1979) discusses the Alaska standard applicable where an appellant seeks to

obtain a reversal from the appellate court because of actual or an appearance of partiality. Other analogous Alaskan cases are Perotti v. State, 806 P.2d 325 (Alaska App. 1991) and Feichtinger v. State, 779 P.2d 344 (Alaska App. 1989).

f. **Petitioners were not vexatious but simply advocated their constitutional, legal, and equitable rights before a biased and prejudiced court.**

Petitioner, in good faith, attempted to answer and defend the declaratory judgment action (A91-478) maliciously brought on by State Farm. Petitioners have argued constitutional due process and equitable rights, plus equal protection, equal access, and civil rights guaranteed by the constitution and well settled law before an obviously biased court, judge, and magistrate judge. Petitioners' complaint filed under case no. A95-130 is primarily aimed at injunctive and declaratory relief. "Access to the courts is a fundamental tenet of our judicial system." In re Oliver, 682 F.2d 443, 446 (3rd Cir. 1982). The district court and the Ninth Circuit continue to suggest petitioners' litigious nature in an effort to discredit petitioners — again using bias and prejudice to dismiss petitioners' appellate rights and as instigated by Judge Singleton. Litigiousness alone is no reason to enjoin future litigation. Ruderer v. United States, 462 F.2d 897, 899 (8th Cir.), cert. denied and appeal dismissed, 409 U.S. 1031, 93 S.Ct. 540, 34 L.Ed.2d 482 (1972).

g. **The district court lacks jurisdiction over any aspects of case no. A91-478 pending appeals.**

Because the district court ordered judgment-debtor proceedings to commence and continue under Magistrate Branson, notwithstanding the lack of jurisdiction and void

orders and judgments as argued above, petitioners filed for injunctive relief relative to the false arrest and confinement of respondent, and for injunctive relief due to the void orders and judgments. The district court revisited the entire case (A91-478) and considered the injunctive relief motion as a motion for reconsideration, and entered its order of February 28, 1995, which encompassed the entire case. Moreover Judge Singleton entered another appealable order dated April 4, 1995, and the two orders filed April 13, 1995, respecting case no. A95-130. These orders were all timely appealed and encompass all aspects of cases A91-478 and A95-130 causing complete jurisdiction to pass to the Ninth Circuit Court of Appeals. When a proper notice of appeal has been timely filed, the general rule is that jurisdiction over any matters involved in the appeal is immediately transferred from the trial court to the appellate court. In re Consolidated Equity Properties, Inc., 136 B.R. 261, 265 (D.Nev. 1991); In re Thorpe, 655 F.2d 997, 998 (9th Cir. 1981). See also Petrol Stops Northwest v. Continental Oil Co., 647 F.2d 1005, 1010 (9th Cir. 1981).

h. The district court lacked jurisdiction and erred in assuming discretionary jurisdiction over A91-478.

A federal court not only has the power but also the obligation at any time to inquire into jurisdiction whenever the possibility that jurisdiction does not exist arises. Philbrook v. Glodgett, 421 U.S. 707, 95 S.Ct. 1893, 44 L.Ed.2d 525 (1975); City of Kenosha, Wisconsin v. Bruno, 412 U.S. 507, 511, 93 S.Ct. 2222, 2225, 37 L.Ed.2d 109 (1973) (Courts of Appeals and the Supreme Court have a duty to see to it that jurisdiction of the district court is not exceeded.)

The Federal Rules of Civil Procedure, Fed.R.Civ.P. 12(h)(3), requires that "[w]henever it appears by suggestion of the parties or otherwise that the court lacks jurisdiction of the subject matter, the court shall dismiss the action." "A court lacking jurisdiction cannot render judgment but must dismiss the cause at any stage of the proceedings in which it becomes apparent that jurisdiction is lacking." Basso v. Utah Power & Light Co., 495 F.2d 906, 909 (10th Cir. 1974) (emphasis in original). "If the parties do not raise the question of lack of jurisdiction, it is the duty of the federal court to determine the matter sua sponte. Therefore, lack of jurisdiction cannot be waived and jurisdiction cannot be conferred upon a federal court by consent, inaction or stipulation." Id. (citations omitted). See Insurance Corp. of Ireland, Ltd. v. Compaigne des Bauxites de Guinee, 456 U.S. 694, 702, 102 S.Ct. 2099, 2104, 72 L.Ed.2d 492 (1982) ("[N]o action of the parties can confer subject-matter jurisdiction upon a federal court.... [A] party does not waive the requirement by failing to challenge jurisdiction early in the proceedings.")

i. **Jurisdiction of the court below was not triggered by a non-existent plaintiff party.**

Diversity jurisdiction requires that the action be between "citizens." The declaratory judgment case below was filed by an alleged but non-existent plaintiff called "State Farm Insurance Company, an Illinois corporation," "plaintiff".

Non-existent entities are not "citizens." Non-existent entities do not have a state of incorporation or principal place of business and do not have standing to initiate lawsuits in any court. With respect to federal diversity jurisdiction, diversity of citizenship must exist at the time the

action is commenced. Newman-Green, Inc. v. Alfonzo-Larrain, 109 S.Ct. 228, 222, 104 L.Ed.2d 893, reh'g denied, 110 S.Ct. 12, 106 L.Ed.2d 627 (1989); Navarro Sav. Ass'n v. Lee, 446 U.S. 458, 549 n.1, 100 S.Ct. 1779, 1781 n.1, 64 L.Ed.23 425, 428 n.1 (1980). Under Fed.R.Civ.P. 3, the action is commenced when the complaint is filed. Accordingly, diversity must exist when the complaint is filed. Faysound Ltd. v. United Coconut Chemicals, Inc., 878 F.2d 290 (9th Cir. 1989); Co-Efficient Energy Systems v. C.S.L. Industries, Inc., 812 F.2d 556 (9th Cir. 1987).

In Alaska, before a corporation may commence and maintain a suit, it must plead and prove that (a) it has paid its biennial corporation tax last due, and has filed its biennial report for the last reporting period. (Alaska Statute 10.06.848(a) (formerly AS 10.05.720)); See also AS 10.06.713. Also, a certificate of authority is required before suit may be maintained by a foreign corporation. The non-existent "plaintiff" could do none of the above since it was non-existent.

The United States Supreme Court held in Woods v. Interstate Realty Company, 337 U.S. 535, 69 S.Ct. 1235, 93 L.Ed. 1524 (1949), that the doctrine of Erie Railroad Company v. Tompkins, 304 U.S. 64, 58 S.Ct. 817, 82 L.Ed. 1188 (1938), requires that where a plaintiff in federal court in a diversity case would be barred from bringing the action in state court, the federal court is likewise barred from hearing the case.

The 10th Circuit, in National Commodity and Barter Ass'n v. Gibbs, 886 F.2d 1240, 1245 (10th Cir. 1989), discussed requirements of federal rules for identifying "parties"

and articulated the rules requirements and the applicable case law. Fed.R.Civ.P. 10(a) provides that "[e]very pleading shall contain a caption setting forth the name of the court, the title of the action, the file number, and a designation as in Fed.R.Civ.P. 7(a). In the complaint, the title of the action shall include the names of all parties...." The Federal Rules thus make no provision for suits by persons using fictitious names or for anonymous plaintiffs. Coe v. United States Dist. Court, 676 F.2d 411, 415 (10th Cir. 1982). Neither do the federal rules or law allow carelessness or negligence on the part of counsel to summarily "substitute" parties due to their initial errors.

A non-existent party plaintiff has no standing to file a complaint and could not move the court for substitution of a "new" plaintiff. Lack of standing is a proper basis to dismiss the complaint without considering any other factor. See Brown v. Sibley, 650 F.2d 760, 771 (5th Cir. 1981). The non-existent "plaintiff" defeats justiciability since there is no case or controversy, hence no valid lawsuit may be brought. See McAffer v. Boston & Maine Railroad, 197 N.E. 328.

j. The district court, in assuming discretionary jurisdiction, violated the McCarran-Ferguson Act, 15 U.S.C. § 1011-12 (1988).

Assuming the non-existent "plaintiff" triggered diversity citizenship (which it never could), the case below involved only issues of State Insurance Law. Congress has expressly left jurisdiction as to insurance law to the states under the McCarran-Ferguson Act, 15 U.S.C. § 1011-12 (1988).

The McCarran-Ferguson Act's primary purpose was to restore to the States broad authority to tax and regulate the

insurance industry in response to United States v. South-Eastern Underwriters Assn., 322 U.S. 533, 64 S.Ct. 1162, 88 L.Ed. 1440, pp. 2207-08.

It enacted the McCarran-Ferguson Act within a year of the decision in South-Eastern Underwriters. U.S. Dept of Treasury v. Fabe, 113 S.Ct. 2202, 2207 (1993).

Insurance law cases should be declined by federal courts under the Burford Abstention Doctrine, Burford v. Sun Oil Co., 319 U.S. 315. Such abstention will protect complex state administrative processes such as insurance law from federal interference. See New Orleans Public Servc. v. Council of New Orleans, 491 U.S. 350. Insured defendants first raised the question of jurisdiction before the summary judgment order was entered. Non-existent plaintiff only responded by stating "It is not worth wasting this court's time to itemize the lack of merit in defendants' 'cross motion' (to dismiss for lack of jurisdiction)."

k. The district court erred by assuming discretionary declaratory judgment jurisdiction.

The district court should have abstained from assuming discretionary jurisdiction and dismissed the entire case at the outset. Discretionary jurisdiction under the Declaratory Judgment Act for insurance cases was recently and clearly articulated in Allstate Ins. Co. v. Mercier, 913 F.2d 273 (6th Cir. 1990).

In Allstate v. Mercier, plaintiff insurer filed a declaratory judgment action to determine if it was obligated to defend and indemnify insureds with respect to actions pending in state courts. The Court of Appeals for the Sixth Circuit held that the district court should not have exercised its discretionary

jurisdiction over the case. The federal court could not: (i) clarify or settle the legal relations between the insured and the insurer because factual determination had not been made in the state court actions; and (ii) could not properly terminate the controversy. The collateral liability aspect of the proceedings would continue in the state court regardless of the federal court's ruling. The Sixth Circuit has considered similar circumstances in American Home Assurance Co. v. Evans, 791 F.2d 61, 65 (6th Cir. 1986). In Allstate v. Mercier, the Sixth Circuit court remanded the case with directions to dismiss the federal action. Recent cases on point have established clear precedent that federal district courts should decline jurisdiction over insurance declaratory judgment cases while underlying state court actions are pending. See Mitcheson v. Harris, 955 F.2d 235 (4th Cir. 1992).

The district court never gave any definitive basis for taking jurisdiction in A91-478, but only stated: "It is suggested that this action is premature because the underlying lawsuits have not been resolved. I disagree. I find that I have and should exercise jurisdiction at this time."

1. **Federal courts must decline jurisdiction on insurance issues that are or will be the subject of state court litigation.**

The Ninth Circuit stated in Ticor Title v. American Resources, 859 F.2d 772 (9th Cir. 1988) that federal courts may decline to assert diversity jurisdiction over a declaratory judgment action that raises issues of state law when those same issues are being presented contemporaneously to state courts. See Ticor, 859 F.2d at 773 referring to Provident Tradesmens Bank & Trust Co. v. Patterson, 390 U.S. 102, 126, 88 S.Ct.

733, 746, 19 L.Ed.2d 936 (1968); Brillhart v. Excess Ins. Co., 316 U.S. 491, 491-97, 62 S.Ct. 1173, 1174-77, 86 L.Ed. 1620 (1942); see generally Geni-Chlor International, Inc. v. Multisonics Development Corp., 580 F.2d 981, 984-85 (9th Cir. 1978).

Discretionary jurisdiction in the federal court is improper as stated in Chamberlain v. Allstate Ins. Co., 931 F.2d 1361, 1366 (9th Cir. 1991).

m. Insured defendants were entitled to contemporaneous payment of defense costs and fees under policies.

Insureds are entitled to payment of costs and attorneys' fees for defending a declaratory judgment action to determine coverage, since such claim is within the supplementary payments coverage for all reasonable expenses incurred by the insured at the request of the insurer. The case most directly in point is Upland Mutual Ins., Inc. v. Noel, 519 P.2d 737, 743 (Kan. 1974). In Noel, the Kansas court held that the filing of the declaratory judgment action itself constituted a "request" by Upland, and therefore the company was obligated under its policy to reimburse the insured Noels for all reasonable expenses incurred at the company's request. Many other cases illustrate this principle. Contemporaneous payment, albeit in a slightly different context, has also been approved by the ninth circuit in Gon v. First State Ins. Co., 871 F.2d 863 (9th Cir. 1989) and Okata v. MGIC Indemnity Corp., 795 F.2d 1450, corrected 823 F.2d 276 (9th Cir. 1986).

n. **Summary judgment granted to non-existent plaintiff must be reversed.**

The standards for summary judgment are clear and well established in Fed.R.Civ.P. 56. Summary judgment should be granted when the record, taken as a whole, could not lead a rational trier of fact to find for non-moving party. Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 247, 106 S.Ct. 2505, 2509, 91 L.Ed.2d 202 (1986); Matsushita Electric Indus. Corp. v. Zenith Radio Corp., 475 U.S. 574, 587, 106 S.Ct. 1348, 1356, 89 L.Ed.2d 538 (1986); McKee v. Cutter Laboratories, Inc., 866 F.2d 219, 220 (6th Cir. 1989). All inferences drawn from the facts must be viewed in a light most favorable to the non-moving party. Matsushita, 475 U.S. at 587, 106 S.Ct. at 1356; Roland v. Johnson, 856 F.2d 764, 769 (6th Cir. 1988).

The moving party bears the burden to conclusively demonstrate that no genuine issue of material fact exists and applicable law allows judgment in its favor. See Sauer v. The Home Indemnity Co., 841 P.2d 175 (Alaska 1992); Gudeneau v. Sweeny Ins. Co., 736 P.2d 763 (Alaska 1987); Concerned Citizens of South Kenai Peninsula v. Kenai Peninsula Bor., 527 P.2d 447, 450 (Alaska 1974).

Defendants filed opposition and statements of genuine issues of material facts to non-existent plaintiff's summary judgment motion. Defendants amply and clearly demonstrated that coverage existed in all three underlying cases. Insured defendants clearly demonstrated factual issues, to include waiver and estoppel issues, bad faith issues, and other substantive and legal evidence to defeat non-existent plaintiff's motion for summary judgment on coverage issues.

o. **State Farm Fire and Casualty Company made unconditional express agreements and re-ratified the insurance contracts to provide coverage.**

State Farm Fire and Casualty Company unconditionally and expressly agreed to pay insured defendants their defense costs in the "Ptarmigan" and "Spokane" underlying litigation. After State Farm Fire and Casualty Company agreed to the obvious conflict of interest between insured defendants, State Farm Fire and Casualty Company agreed unconditionally in writing that insured defendants could engage independent counsel at State Farm Fire and Casualty Company's expense in "Ptarmigan" and "Spokane." These agreements were made before summary judgment was granted to non-existent plaintiff and supplemental existing insurance policies.

p. **The district court erred when it relied solely on third-party complaints to determine coverage.**

The district court relied solely on the "Spokane," "Borbe," and "Ptarmigan" plaintiffs' complaints to grant summary judgment of no coverage.

In addition to the allegations in third-party complaints, the insurer's duty to defend is also triggered by facts indicating potential coverage that arise during the investigation and resolution of the underlying dispute. Facts outside the complaint may trigger the duty to defend in accord with most insureds' objective reasonable expectations. Insureds expect their coverage and defense benefits to be determined by the nature of the claim against them, not be the fortuity of how the plaintiff, a third party, chooses to phrase the complaint against the insured. See National Indem. Co. v. Flesher, 469 P.2d

360, 365-367 (Alaska 1970); Loftin v. U.S. Fire Ins. Co., 127 S.E.2d 53, 59 (Ga. Ct. App. 1962).

To allow the insurance company "to construct a formal fortress of the third party's pleadings and to retreat behind its walls, thereby successfully ignoring true but unpleaded facts within its knowledge that require it, under the insurance policy, to conduct the putative insured's defense" would not be fair. Associated Indem. v. Insurance Co. of N. Am., 386 N.E.2d 529, 536 (Ill. Ct. App. 1979).

Courts agree that the duty to defend is triggered not only by the allegations in the complaint, but by the later discovery of relevant facts. Facts are still being formulated in all underlying cases. As Appleman concludes, "[t]he insurer cannot safely assume that the limits of its duties to defend are fixed by the allegations a third party chooses to put into his complaint, since an insurer's duty is measured by the facts..." J.A. Appleman, 7C Insurance Law and Practice § 4683, at 56 (Berdal ed. 1979). See National Indem. Co. v. Flesher, supra, at 365-367; Gray v. Zurich Ins. Co., 54 Cal. Rptr. 104, 112-113 (1966); Loftin v. U.S. Fire Ins. Co., Supra, at 58; Patrons Mutual Ins. Ass'n v. Harmon, 732 P.2d 741, 744 (Kansas 1987); Waste Management v. Peerless Ins. Co., 340 S.E.2d 374, 377-378 (N.C. 1986).

CONCLUSION

Petitioners have not intended to harass, increase costs, or engaged in vexatious litigation, but, rather, have sought to litigate causes of action and legal claims under the constitution, statutes, and within well settled legal and equitable doctrines. Petitioners should not be enjoined from exercising their constitutional, statutory, and equitable appellate rights. Neither should petitioners be required to pay a fine in any amount or be incarcerated while attempting to assert such rights. Petitioners request fair and impartial justice in this matter. The order of dismissal of petitioners' appeal should be reversed and vacated with an order allowing petitioner to fully prosecute his appeals in this matter. Petitioners should be allowed to argue all points and issues on appeal as raised in the trial court whether or not specifically raised in this petition.

Respectfully submitted,

Wayne Bolt
1317 W. Northern Lights
Suite 100
Anchorage, Alaska 99503
Phone (907) 258-6100

Petitioner

November 5, 1995

APPENDIX

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

In re: ALEX WAYNE BOLT,	) No. 95-80053
	) DC# CV-91-478-JKS
Respondent.	) Alaska (Anchorage)
	) Filed August 7, 1995

ORDER

Before: Alercón, Fernandez, and Rymer, Circuit Judges

This court has reviewed the notice of appeal and accompanying documents filed June 21, 1995 in the above referenced district court docket pursuant to the pre-filing review order entered in this docket. Because the appeal lacks merit, it shall not be permitted to proceed.

A certified copy of this order served on the district court shall act as and for the mandate of this court.

No motions for reconsideration, rehearing, clarification, stay of the mandate, or any other submissions shall be filed or entertained in this closed docket.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

Alex Wayne Bolt, et al.,	)
Plaintiffs,	) No. A95-130-CV (JKS)
vs.	)
	)
Judge James K. Singleton, et al.,	)
Defendants.	)
	)
State Farm Fire and Casualty Co.,	)
Plaintiff,	) No. A91-478-CV (JKS)
vs.	)
	) Received by 12:00 noon
Alex Wayne Bolt, et al.,	) Filed June 5, 1995
Defendants.	)

NOTICE OF TIMELY PAYMENT OF FINE AND OBJECTION TO PAYMENT

By order filed May 22, 1995, this court, using continuing bias and prejudice, fined the undersigned $2,500, without jurisdiction and in violation of the U.S. Constitution, Alaska Constitution, and legal precedent. Without waiver of any rights, payment is made below.

[Copies of money orders in original.]

Further, this court continues to enter orders in direct contradiction to the record. All issues are pending on appeal to the Court of Appeals for the Ninth circuit under this court's February 28, 1995, "Reconsideration" order and supplemental

appeals of subsequent orders by this court after timely notice of appeal was filed.

The undersigned had no money to pay the fine which was excessive and vindictive. Money had to be borrowed to pay the fine under duress, extreme hardship, and mental anguish being unjustly imposed on the undersigned.

This fine is being paid under extreme, unjust, and unfair biased and prejudicial orders of this court. This court has denied the undersigned of equal protection, equal access to the court, and has violated 11 U.S.C. 362(a) and 42 U.S.C. §§ 1981 and 1983. This court continues to make clear error, abuse its discretion, act arbitrarily and capriciously, and continues to improperly deny the undersigned injunctive and declaratory relief for a new judge in this matter under the law.

The undersigned intends to not waive any appellate rights by paying the fine, but instead is paying the fine under extreme duress, hardship, and coercion of this court and this court's threat of false imprisonment that would deny the undersigned the ability to timely prosecute his appeals now pending in these matters.

Dated: June 5, 1995

/s/ Wayne Bolt
Wayne Bolt

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

Alex Wayne Bolt,	)
	) No. 95-130 CV (JKS)
Plaintiff,	)
vs.	) Judgment in a Civil Case
	) Filed May 23, 1995
Judge James K. Singleton, et al.	)
	)
Defendant.	)

XX DECISION BY THE COURT. This action came to trial or hearing before the Court. The issues have been tried or heard and a decision has been rendered.

IT IS ORDERED AND ADJUDGED

THAT this action is DISMISSED WITH PREJUDICE and Judgment is hereby entered in favor of the defendants and against the plaintiff.

APPROVED:

/s/ James K. Singleton
U.S. District Court Judge

Dated: 5/22/95

Phyllis Rhodes
Clerk

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

State Farm Fire and Casualty Co., Plaintiff,	) No. 91-478-CV (JKS)
vs.	) Order
	) Filed May 22, 1995
Alex Wayne Bolt, et al., Defendants.	)

ORDER

Alex Wayne Bolt was ordered to show cause why A95-130 CV (JKS) should not be dismissed as an inappropriate motion for relief from judgment where Bolt had previously raised the same issues in motions for reconsideration and for relief from judgment and those motions had been denied. *See, e.g.*, White and Miller, Federal Practice and Procedure § 2868 (1973) and 1994 supp; *see also Lapin v. Shulton, Inc.*, 333 F.2d 169 (9th Cir. 1964), cert. denied, 379 U.S. 904 (1964) (independent action should be assigned to same court that rendered initial judgment). Bolt was also ordered to show cause why he should not be fined the sum of $2,500 for contempt of court for filing what was in effect a further motion for reconsideration after being directed not to file any more such motions. *See* Order at Docket No. 466 *noting* Order at Docket No. 454 and numerous prior orders addressing and rejecting the arguments that Bolt continues to make. Bolt has filed a response to this Court's Order at Docket No. 454. *See* Docket No. 483. Bolt does not address the issues identified in the Order. Instead, he simply repeats the arguments he has consistently made and this Court has consistently rejected.

There are not issues of disputed material fact and no legal issues that have not previously been addressed. Therefore, neither an evidentiary hearing nor oral argument would be of any use. Bolt is intransigent.

IT IS THEREFORE ORDERED:

All of the motions Bolt makes at Docket 483 repeat arguments previously rejected; no basis for reconsideration is offered. All the motions at **Docket No. 483** are **DENIED**.

Bolt has failed to show cause why A95-130 CV (JKS) should not be dismissed with prejudice, *Bolt v. Singleton*, A95-130 CV (JKS) is therefore **DISMISSED WITH PREJUDICE**. The Clerk shall enter judgment against Bolt and in favor of the Defendants.

Bolt has not shown cause why he should not be fined. In fact, he continues to make the arguments previously rejected. He is clearly in contempt of this Court. Alex Wayne Bolt is therefore Ordered to pay to the Clerk of this Court at 222 W. 7th Avenue, Room 229, Anchorage, Alaska, the sum of $2,500 as a sanction for his contumacious conduct. The payment shall be made on or before **Monday, June 5, 1995, at 12:00 p.m.** Should the Clerk certify that Bolt has not made the required payment, a warrant for his arrest shall issue and he shall be taken into custody and incarcerated in an appropriate institution until such time as he pays the fine or demonstrates to the satisfaction of Magistrate Judge Branson that he lacks the ability to both pay the fine and meet his necessary subsistence needs.

This Order is to be served by the U.S. Marshal.

Dated: May 22, 1995 /s/ James K. Singleton

Honorable James K. Singleton, Jr.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

Alex Wayne Bolt, et al., Plaintiffs,	)	
	)	No. A95-130-CV (JKS)
vs.	)	
	)	
Judge James K. Singleton, et al., Defendants	)	
	)	
State Farm Fire and Casualty Co., Plaintiff,	)	
	)	No. A91-478-CV (JKS)
vs.	)	
	)	
Alex Wayne Bolt, et al., Defendants.	)	

RESPONSE TO SHOW CAUSE ORDER, DEMAND FOR JURY TRIAL, RENEWED MOTION FOR RECUSAL, AND MOTION FOR STAY PROCEEDINGS PENDING APPEALS

Background

Wayne Bolt ("respondent") was ordered to show cause on several issues as stated in this court's order filed April 13, 1995. Respondent had filed a complaint, case no. A95-130-CV (JKS), paid the filing fee, and was in the process of obtaining the required summonses from the court to effect service on the named defendant parties when the show cause order was entered. Case no. A95-130-CV was assigned to Judge Singleton, who ordered this new case be consolidated with case

no. A91-478-CV (JKS), which has been ongoing since October 1991. An alleged final judgment had been entered in A91-478 in December 1993, against respondent and four other defendants, while respondent was protected from any judicial proceedings under 11 U.S.C. 362(a). At the time A91-478 was filed by State Farm Insurance Company, a non-existing, non-legal and moot entity, named defendant Colorado Resources, Inc. (CRI) was protected by 11 U.S.C. 362(a), making the initial complaint in case A91-478 against CRI moot from the outset.

Once Judge Singleton entered the December 21, 1993, alleged final judgment against respondent and the other four defendants, State Farm moved for relief from stay in U.S. Bankruptcy Court to obtain attorneys fees against all defendants in case A91-478. During the early proceedings, defendants had moved for dismissal, due to the non-existence and non-legal entity "State Farm Insurance Company, an Illinois Corporation," which was acting as the party plaintiff. Judge Singleton allowed, by a "misnomer" the substitution of the plaintiff to become "State Farm Fire and Casualty Company," an Alaska licensed and legal insurance company operating in Alaska. The entire case was moot from the outset since no "case or controversy" could be triggered by the alleged non-existent party plaintiff known as "State Farm Insurance Company, an Illinois corporation."

Debtors objected to State Farm Fire and Casualty Company's motion for attorneys fees and filed motions to vacate the final judgment and a Rule 60(b) motion to vacate based on State Farm's willful violation of 11 U.S.C. 362(a) in proceeding against respondent, without relief from stay, after

formal notice of respondent's bankruptcy was filed at docket no. 317. Judge Singleton ignored defendants' post-judgment motions, refused to allow them to be filed in the record, and sent them back by mail to respondent with an order that defendants could make no more filings in his court in an exercise of extreme and continuing bias and prejudice against respondent, which had existed since respondent and other defendants, acting pro per, answered and were defending the moot lawsuit from the outset. Judge Singleton granted State Farm's post-judgment motion for attorneys' fees awarding State Farm full and total fees and costs due to the alleged "vexatious" conduct by respondent, notwithstanding the void alleged final judgment that had been entered by Judge Singleton in willful violation of 11 U.S.C. 362(a).

Once State Farm commenced judgment-debtor hearings, respondent and the other four defendants sought injunctive relief, and demonstrated good cause under 28 U.S.C. § 1826, as to why the judgment-debtor proceedings should not proceed. This court summarily refused to hear the injunctive relief motion and maliciously had respondent falsely arrested and held in jail, even though respondent had timely appealed the incarceration order before respondent was incarcerated, respondent was held without bail. After respondent was released from jail and forced to participate in the judicially infirm judgment-debtor proceedings due to the void judgments that had been entered in violation of 11 U.S.C. 362(a), Judge Singleton treated the injunctive relief motions as post-judgment "reconsideration" motions in his order of February 28, 1995, which was timely appealed to the Court of Appeals for the Ninth Circuit. The February 28, 1995, "reconsideration" order

revisited almost all issues in case no. A91-478, which now remains on appeal, thereby removing all jurisdiction from Judge Singleton and this court at this time, since all issues in case no. A91-478 remain on appeal out of the "reconsideration" order.

While Judge Singleton allowed State Farm to proceed against White Mountain Mining Partners (WMMP), Nabesna Mining Partners (NMP), and CRI, as pro se litigants, Judge Singleton eventually ordered that these entities could not be represented by their managing agent, "respondent Bolt," and effectively denied NMP, WMMP, and CRI the right to appeal by returning their notices of appeal by mail. See Exhibit A. Under Alaska Statute 32.05.190, any person may represent his own property interest in court. Using bias and prejudice, Judge Singleton had denied this right which is explicit in AS 32.05.190, and which has been upheld by the Ninth Circuit in U.S. v Reeves, 431 F.2d 1187 (9th Cir. 1970).

Because of the contractual language of the State Farm insurance policies, and legal precedent within the Ninth Circuit and other circuits, defendants were able to retain, for a limited time, counsel for four defendants. Respondent and Ann Bolt were briefly represented by attorney Peter Giannini, WMMP was represented by attorney Jeffrey Mayhook, CRI was represented by attorney Kenneth Jacobus, NMP was represented by respondent while NMP attempted to engage counsel.

Engaged counsel for defendants expected to be paid by State Farm by answering and defending the declaratory judgment action brought on by State Farm "at the request" of Sate Farm. Under specific policy contract language and legal

precedent in the Ninth Circuit and other circuits, State Farm was obligated to pay all reasonable defense cost incurred "at the request" of the insurer, State Farm Fire and Casualty Company. Although the underlying "Spokane," "Borbe," and "Ptarmigan" litigation was on-going, State Farm had moved for summary judgment that no coverage existed, notwithstanding that State Farm and their hand-picked and appointed counsel had totally controlled all aspects of the defense of "Spokane" and "Ptarmigan" for more than 18 months under reservations or rights when Judge Singleton granted State Farm their summary judgment motion. Both State Farm and all defendants had noticed the court of many existent genuine issues of material fact and, particularly, issues of waiver and estoppel relative to the underlying litigation. Judge Singleton demonstrated bias and prejudice against all defendants and favored State Farm, and made clear legal error in granting State Farm's motion for no coverage in the "Spokane" and "Ptarmigan" litigation.

State Farm immediately stopped paying its appointed defense counsel which had been hired by State Farm to defend "Spokane" and "Ptarmigan" litigation. Further, Judge Singleton, in clear legal error, opined in the summary judgment order that State Farm had no obligation to pay insureds' defense counsel in answering and defending the malicious declaratory judgment action brought on by State Farm. Attorneys Mayhook and Giannini withdrew as counsel for fear of not being paid. Attorney Jacobus agreed to continue representing CRI, although very ineffective and limited representation was even accomplished, up until Mr. Jacobus was fired by CRI for attempting to create jurisdiction in the

Ninth Circuit when he knew jurisdiction did not exist because no valid final appealable order had been entered by this court.

Judge Singleton's "reconsideration" order dated February 28, 1995, was timely appealed, which removed all jurisdiction of A91-478 to the Ninth Circuit Court of Appeals. Regardless, Judge Singleton and Magistrate Branson continued to assert jurisdiction over the case and allowed State Farm, by issuance of a restraining order, to continue the judgment-debtor proceedings and to take insured defendants' assets while the appeal is pending over all aspects of the case through defendants' injunctive motions.

Respondent paid the filing fees and filed a formal complaint entitled "COMPLAINT FOR INJUNCTIVE RELIEF, DECLARATORY RELIEF, AND FOR DAMAGES." This lawsuit was filed under causes of action available under the U.S. Constitution, Alaska Constitution, statutes, and legal precedent. The entire proceedings under A91-478 were permitted and prosecuted under Judge Singleton without any jurisdiction of his court. Jurisdictional issues have been briefed and a pending application to the U.S. Supreme Court under Supreme Court Rule 22 and is incorporated herein by reference and attached. See Exhibit B. Respondent is an aggrieved person having a constitutional and legal right to pursue his claims in the courts. Judge Singleton, as well as other Alaska judges, have sought to deprive respondent of his constitutional, legal, and equitable rights to litigate his cause of action in the courts. Respondent should not be held in contempt or fined, and cannot be legally found guilty of violating court orders entered in case no. A91-478 when jurisdiction did not exist in the first place, and the court has,

as a matter of law, been biased and prejudiced against respondent.

Further, respondent is entitled to a jury trial on these issues, and respondent is also entitled to appear before an unbiased, unprejudiced court and judge as a matter of constitutional right and in accordance with Alaska statutes, equity, fairness, and in the name of justice as a U.S. citizen. Respondent makes the following arguments in this respect.

I. Respondent is entitled to the relief sought in case no. A95-130-CV which cannot be legally or equitably stricken.

No valid final judgment or amended judgment or other orders have been entered in case no. A91-478 for lack of jurisdiction of this court to act in case no. A91-478. This court has summarily turned its head on the jurisdictional facts, issues, and law of the case, by using bias and prejudice against defendants and in favor of big, rich, and politically protected State Farm Fire and Casualty Company. Issues relative to jurisdiction have been briefed before this court without acknowledgement or action by this court. Respondent's Rule 60(b) motion, and related motions to amend and vacate the void judgments, were not only summarily rejected by this court, but intentionally purged from the record and mailed back to respondent, Exhibit C, with this court's order of May 4, 1994, at docket 389, which denied respondent access to the court and denied respondent his constitutional rights as an aggrieved person, equal protection, and equal access to the courts, all of which violates respondent's civil rights under The Civil Rights Act of 1866, as amended, and giving respondent

a right of action for redress under 42 U.S.C. §§ 1981 and 1983.

Respondent was undeniably protected by 11 U.S.C. 362(a), which gave this court no jurisdiction to enter orders and judgments against respondent while protected by the automatic stay provisions of 11 U.S.C. 362(a). Such violation of the bankruptcy code and legal precedent, to include decisions of the Ninth Circuit and the U.S. Supreme Court, gives respondent causes of action filed in case no. A95-130. The issue of jurisdiction has been aptly briefed in the pending application to the U.S. Supreme Court under Supreme Court Rule 22, now pending before Justice Scalia, which is fully incorporated herein by reference and attached as Exhibit B.

Additionally, respondent has invoked the jurisdiction of the U.S. Supreme Court under 28 U.S.C. § 2106 by requesting a vacatur of the void orders entered by this court out of bias and prejudice and demonstrated, as a matter of law, by this court.

Respondent's complaint in case no. A95-130 (copy attached as Exhibit D) is real, justified, built on causes of action as a matter of law, and permitted under the U.S. Constitution, Alaska Constitution, statutes and law which is well settled. Respondent cannot be legally or equitably held in contempt, fined, and incarcerated by basing his causes of action on constitutionally protected rights, statutes, and legal precedent. No part of the complaint in case no. A95-130 can be frivolous or in violation of court orders which were void for lack of jurisdiction or entered as a result of documented bias and prejudice against respondent. Rather, respondent is

entitled to redress and damages under 42 U.S.C. §§ 1981-1983.

II. **Res judicata and collateral estoppel do not apply to void orders and judgments entered without jurisdiction in case no. A91-478.**

The U.S. District Court litigation, initiated by State Farm as a declaratory judgment action, does not bar this instant litigation on res judicata arguments. In order to bar a later suit under the doctrine of res judicata, an adjudication must (1) involve the same "claim" as the later suit, (2) have reached a final judgment on the merits, and (3) involve the same parties or their privies. Blonder-Tongue Laboratories v. Univ. of Ill. Found, 402 U.S. 313, 323-24, 91 S.Ct. 1434, 1439-40, 28 L.Ed.2d 788 (1971); Davis Wright & Jones v. National Union Fire Ins. Co., 709 F.Supp. 196 (W.D.Wa. 1989), aff'd 897 F.2d 1021 (9th Cir. 1990). See also Nordhorn v. Ladish, 9 F.3d 1402 (9th Cir. 1993).

It is undisputed this instant lawsuit involves different claims than the declaratory judgment action that was initiated by defendant State Farm. No valid judgment has been reached in the declaratory judgment action. See arguments below. Further, a simple review of the parties in the captions of the two cases clearly demonstrates parties are different.

No final appealable judgment has been entered in the U.S. District Court Case

The alleged final judgment entered in the U.S. District Court is void ab initio. See argument below. There has been no final appealable judgment entered in the declaratory

judgment action. No basis exists — legal or equitable — to grant summary judgment on res judicata in other cases when no previous valid final appealable judgment has been entered.

A judgment is final and appealable under 28 U.S.C. § 1291 only if it "ends the litigation on the merits and leaves nothing for the court to do but execute the judgment." Gulfstream Aerospace Corp. v. Mayacamas Corp., 485 U.S. 271, 275, 108 S.Ct. 1133, 1136, 99 L.Ed.2d 296 (1988) (quoting Catlin v. United States, 324 U.S. 229, 233, 65 S.Ct. 631, 633, 89 L.Ed. 911 (1945)). See also Sussex Drug Products v. Kanasco, Ltd., 920 F.2d 1150, 1153 (3rd Cir. 1190). Nevertheless, Fed.R.Civ.P. 54(b) provides for special express certifications of finality which permit "entry of a final judgment as to one or more but fewer than all of the claims or parties". But "[a]bsent special certification, a judgment is final only if it disposes of all of the claims of all of the parties." Matter of Vitreous Steel Products Co., 911 F.2d 1223, 1230 n.3 (7th Cir. 1990). Without any final appealable judgment in the declaratory judgment action, res judicata cannot be legally or equitably raised.

Judgments entered in the declaratory judgment action are void ab initio

All orders and judgments entered by the U.S. District Court in the declaratory judgment action subsequent to August 25, 1993, which includes the alleged final judgment and amended judgments, are void ab initio.

All orders and judgments entered by the U.S. District Court, Judge Singleton, subsequent to August 25, 1993, (the date on which Bolt filed a Chapter 11 petition) are void ab

initio. The automatic stay under 11 U.S.C. § 362 suspends any non-bankruptcy court's authority to continue judicial proceedings then pending against the debtor. This is so because § 362's stay is mandatory and "applicable to all entities", including state and federal courts. 11 U.S.C. § 362(a). See Boynton v. Ball, 121 U.S. 457, 466-67, 7 S.Ct. 981, 984, 30 L.Ed. 985 (1887) ("where the bankruptcy proceedings are brought to the attention of the court in which a suit is being prosecuted against a bankrupt, that court shall not proceed to final judgment until the question of his discharge shall have been determined."). See In re Highway Truck Drivers & Helpers Local 107, 888 F.2d at 299 n. 8 (if state court proceeds in violation of stay, "such proceedings would have been in excess of the state court's authority and subject to collateral attack"); Ellis v. Consolidated Electric Corp., 711 F.2d 60, 61 (9th Cir. 1983) ("the automatic stay of proceeding is applicable at both the trial and appellate levels"), cert. denied, 478 U.S. 1021, 106 S.Ct. 3335, 92 L.Ed.2d 740 (1986); Kommanditselskab Supertrans v. O.C.C. Shipping, Inc., 79 B.R. 534, 540 (S.D.N.Y. 1987) (if stay applies, "the district court's power to adjudicate the case is suspended pending the outcome of the bankruptcy proceedings").

The automatic stay's effect on judicial proceedings against the debtor does not depend upon whether the court finds for or against the debtor. Ellis v. Consolidated Electric Corp., 894 F.2d 371, 373 (10th Cir. 1990). Once triggered, the automatic stay of an action pending against the debtor in district court "continues until the bankruptcy case is closed, dismissed, or discharge is granted or denied, or until the bankruptcy court grants some relief from the stay. 11 U.S.C.

§ 362(a), (c)(2), (d), (e), (f)." Pope v. Manville Forest Products Corp., 778 F.2d 238, 239 (5th Cir. 1985). See also In re De Jesus Saez, 721 F.2d 848, 851-2 (1st Cir. 1983) (stay terminates when Chapter 13 petition is dismissed).

Absent relief from the stay, judicial actions and proceedings against the debtor are void ab initio. Kalb v. Feuerstein, 308 U.S. 433, 438-40, 60 S.Ct. 343, 346, 84 L.Ed. 370 ("the action of the ... Court was not merely erroneous but was beyond its power, void, and subject to collateral attack"). See also In re Ward, 837 F.2d 124, 126 (3rd Cir. 1988) (sheriff's sale conducted in violation of the stay is "void and without effect", citing Kalb).[1] Res judicata grounds do not rise in subsequent litigation when no valid final judgment has been entered previously.

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1. Other cases among the many holding that judicial acts in violation of the automatic stay are void, are these: In re Advent Corp., 24 B.R. 612 (1st Cir.Bankr.1982); In re 48th Street Steakhouse, Inc., 835 F.2d 427, 431 (2d Cir.), cert. denied, 485 U.S. 1035, 108 S.Ct. 1596, 99 L.Ed.2d 910 (1987); In re Smith, 876 F.2d 524, 526 (6th Cir. 1989); In re Shamblin, 890 F.2d 123, 125 (9th Cir. 1989); Ellis, 894 F.2d at 372; In re Albany Partners, Ltd., 749 F.2d 670, 675 (11th Cir. 1984); In re Joyce Purnell, 92 B.R. 625 (Bankr.E.D.Pa. 1988); In re Clark, 69 B.R. 885, 891, vacated in part on other grounds, 71 B.R. 747 (Bankr.E.D.Pa. 1987); In re A.I.A. Industries, Inc., 75 B.R. 1013, 1021 n. 5 (Bankr.E.D.Pa. 1987); In re Fasgo, Inc., 58 B.R. 99, 100 (Bankr.E.D.Pa. 1986); In re Marta Group, Inc., 33 B.R. 634, 639 (Bankr.E.D.Pa. 1983).

III. This Court has no absolute immunity against claims of injunctive relief and for acts taken without jurisdiction.

Respondent's complaint filed under A95-130 includes 22 counts. The first five counts are for injunctive relief pertaining to causes against Judge Singleton and Magistrate Branson, and for prospective acts involving them. Counts VII, XI, XIV, XX, and XXII involve causes addressed to jurisdictional issues. The prayer for relief includes cost, fees, and damages claims jointly and severally due to personal liability, including judiciary acts taken outside of any judicial jurisdiction in case A91-478. The remaining counts are under causes of action arising under per se violation of respondent's constitutional rights, violations of statutes and law, and cannot therefore be dismissed or be considered frivolous. Counts against "Bar defendants" are based on legal precedent of respondent superior — vicarious liability of masters over servants — and must stand.

The crux of the complaint in A95-130 against the judiciary defendants are for injunctive relief and for declaratory relief. A long line of U.S. Supreme Court precedents acknowledges that, generally, a judge is immune from a suit for money damages. See, e.g., Forrester v. White, 484 U.S. 219 (1988); Cleavinger v. Saxner, 474 U.S. 193 (1985); Dennis v. Sparks, 449 U.S. 24 (1980); Supreme Court of Va. v. Consumers Union of United States, Inc., 446 U.S. 719 (1980); Butz v. Economou, 438 U.S. 478 (1978); Stump v. Sparkman, 438 U.S. 349 (1978); Pierson v. Ray, 386 U.S. 547 (1967).

The Supreme Court, however, has recognized that a judge is not absolutely immune from criminal liability, Ex parte Virginia, 100 U.S. at 348-349 (1880), or from a suit or prospective injunctive relief, Pulliam v. Allen, 466 U.S. at 536-543 (1984), or from a suit for attorney's fees authorized by statute, id., at 543-544. See Mireles v. Waco, 502 U.S. 9 (1991).

The U.S. Supreme Court has made clear that the immunity is overcome in only two sets of circumstances. First, a judge is not immune from liability for non-judicial actions, i.e., actions not taken in the judge's judicial capacity. Forrester v. White, 484 U.S. at 227-229; Stump v. Sparkman, 435 U.S. at 360. Second, a judge is not immune for actions, though judicial in nature, taken in the complete absence of all jurisdiction. Id., at 356-357; Bradley v. Fisher, 13 Wall. 335, 351 (1872). In Pulliam v. Allen, 466 U.S. 522 (1984), the U.S. Supreme Court reaffirmed the rule that judges are immune from suites for damages, but holds that they may be sued for injunctive and declaratory relief and held personally liable for money judgments in the form of costs and attorneys' fees merely on the basis of erroneous judicial decisions.

When the complaint in case no. A91-478 was filed against CRI, the automatic stay under 11 U.S.C. 362(a) was in full force and effect, making the complain against CRI void and causing plaintiff State Farm to be in willful violation of the automatic stay.

When this court entered the alleged final judgment against respondent on December 21, 1993, respondent was fully protected by 11 U.S.C. 362(a), making the alleged final judgment void ab initio. Judge Singleton and Magistrate

Branson acted without jurisdiction, making their acts non-judicial. See Forrester v. White, 484 U.S. at 227-229, and Stump v. Sparkman, 435 U.S. at 360. Further, Judge Singleton's acts were taken in the complete absence of all jurisdiction. Id., at 356-357 and Bradley v. Fisher, 13 Wall. at 351.

It follows that all acts by Magistrate Branson have been summarily taken without jurisdiction, which bars any and all claims of immunity. Judge Singleton's "ministerial" act of entering alleged final judgment also raises the question of judicial immunity verses a non-judicial function and a debatable bar to immunity. Ex parte Virginia, 100 U.S. at 348-349. For a complete briefing on this court's lack of jurisdiction, see Exhibit B, the application to the U.S. Supreme court.

IV. Court orders are judicially infirm and are voidable when entered out of bias and prejudice and when entered without jurisdiction.

When respondent attempted to file post-judgment motions to vacate the orders and judgments that were void ab initio, this court — Judge Singleton — entered orders denying respondent access to the court, and returned legally supportable pleadings and motions to vacate void orders to respondent, after purging them from the official court docket record. Such acts violated respondent's civil rights under 42 U.S.C. § 1981-1983, the U.S. Constitution and state constitution, plus well-settled law, giving an aggrieved person access to the courts, equal protection under the law, and constitutional due process. Such deprivation of respondent's rights and access to the court resulted in violation of the federal constitution, which stripped

this court, Judge Singleton, and Magistrate Branson of their official character. The Ninth Circuit stated in an amended order to 807 F.2d 842 the following:

> When a state official acts in violation of the federal constitution, even when enforcing a state law, "he is stripped of his official or representative character." Ex parte Young, 209 U.S. 123, 160, 28 S.Ct. 441, 454, 52 L.Ed. 714 (1908). For the same reason, by virtue of the Supremacy Clause, if a state official violates a federal statute, they become "subjected in ... person to the consequences of ... individual conduct. The State has no power to impart to him any immunity from responsibility to the Supreme authority of the United States." Id. See Cory v. White, 457 U.S. 85, 89, 102 S.Ct. 2325, 2328, 72 L.Ed.2d 694 (1982); Worcester County Trust Co. v. Riley, 302 U.S. 292, 297, 58 S.Ct. 185, 187, 82 L.Ed. 268 (1937).

See Exxon v. Fischer 817 F.2d 1429 (9th Cir. 1987)

This same holding would apply to this court's denial of respondent's constitutional due process rights. The pleadings filed by respondent in April and May 1994, seeking vacation of void orders and judgments were made in good faith, based on law and available under the rules and legal precedent, and available to all litigants under the civil rights laws and constitutional due process. Denial of these rights to respondent stripped this court of its alleged immunity. Judge Singleton has entered other orders depriving respondent and other defendants of their constitutional rights which also defeated immunity.

VI. This court's grant of summary judgment orders and judgments were entered using bias and prejudice as a matter of law without of jurisdiction and by clear error of law, giving rise to renewed claims and causes of action by respondent, and requiring recusal of Judge Singleton and Magistrate Branson as a matter of law.

This court has, as a matter of law, demonstrated bias and prejudice against respondent and in favor of State Farm Fire and Casualty Company. This court granted summary judgment of no coverage to plaintiff State Farm in spite of numerous outstanding material issues of genuine facts admitted to and being pled by both plaintiff State Farm and respondent and the other four defendants in case no. A91-478. Included in the material issues of act were issues of waiver and estoppel that must be tried by finding of fact and not on summary judgment as a matter of law. This court summarily rejected, out of bias and prejudice, defendants' counsels' arguments and oppositions to plaintiff's motion for summary judgment. See exhibits to respondent's complaint in case no. A95-130, attached hereto as Exhibit D. This demonstrated bias and prejudice pre-dated the bias and prejudice noted above in the denial of constitutional rights. Respondent and other defendants in A91-478 moved to recuse Judge Singleton under 28 U.S.C. § 144, which he summarily rejected almost without comment, except to justify non-recusal on the doctrine of "extrajudicial" acts.

In Liteky v. United States, ___ U.S. ___, 114 S.Ct. 1147, 127 L.Ed.2d 474 (1994), the court stated:

> It is wrong in theory, though it may not be too far off the mark as a practical matter, to suggest, as many opinions have, that "extrajudicial source" is the only basis for establishing disqualifying bias or prejudice. It is the only common basis, but not the exclusive one, since it is not the exclusive reason a predisposition can be wrongful or inappropriate. A favorable or unfavorable predisposition can also deserve to be characterized as "bias" or "prejudice" because, even though it springs from the facts adduced or the events occurring at trial, it is so extreme as to display clear inability to render fair judgment.

Liteky, 114 S.Ct. at 1155. This limitation on the extrajudicial source doctrine applies both to motions brought pursuant to 28 U.S.C. § 455 and affidavits of prejudice filed pursuant to 28 U.S.C. § 144. Id. 114 S.Ct. at 1155-57.

This court, in granting summary judgment to State Farm on coverage while the many material issues of material fact, including issues on waiver and estoppel, was "so extreme as to display clear inability to render fair judgment." Id. 114 S.Ct. at 1155. This court's "extreme" orders denying respondent the right to file Rule 60(b) pleadings and related motions to vacate void orders and judgments also demonstrates this court's clear inability to render fair, unbiased, and unprejudicial treatment to respondent. Judge Singleton and Magistrate Branson must be recused and disqualified from case no. A91-478 and A95-130. All orders and judgments entered are without jurisdiction as argued above and are void and without effect due to this

court's bias and prejudice as a matter of law, and for violation of respondent's constitutional due process.

Further, the court's refusal to stay the proceedings in A91-478 after respondent's formal notice to this court of his chapter 11 petition, this court's entry of the $10,000 sanction order against respondent, and this court's entry of the final judgment and dismissal of respondent's counterclaims while respondent was fully protected by 11 U.S.C. § 362(a), and while this court encouraged State Farm to aggressively prosecute the case against respondent in willful violation of 11 U.S.C. § 362(a), all together and collectively add to the demonstrated extreme bias and prejudice so as to clearly display clear inability to render fair judgment.

VII. Respondent has not been vexatious but simply advocated his constitutional, legal, and equitable rights before a biased and prejudiced court.

Respondent has, in good faith, attempted to answer and defend the declaratory judgment action maliciously brought on by State Farm. This court is requiring respondent to show cause why an injunction should not be issued against respondent based on Denardo v. Murphy, 781 F.2d 1345 (9th Cir.) Denardo is extremely distinguishable. Denardo apparently involved statute of limitations issues that were previously decided as a matter of statutes. Respondent has argued constitutional due process and equitable rights, plus equal protection, equal access, and civil rights guaranteed by the constitution and well settled law before an obviously biased court, judge, and magistrate judge. Respondent's complaint filed under case no. A95-130 is primarily aimed at injunctive

and declaratory relief. "Access to the courts is a fundamental tenet of our judicial system." In re Oliver, 682 F.2d 443, 446 (3rd Cir. 1982). this court continues to suggest respondent's litigious nature in an effort to discredit respondent — again using bias and prejudice. Respondent did not initiate the declaratory judgment action. A moot, non-existent, and non-legal alleged plaintiff initiated the action. In a defense posture, respondent has only sought fairness, unbiased and unprejudicial judicial treatment, and equal access to the court. Such advocacy cannot be considered vexatious. Litigiousness alone is no reason to enjoin future litigation. Ruderer v. United States, 462 F.2d 897, 899 (8th Cir.), cert. denied and appeal dismissed, 409 U.S. 1031, 93 S.Ct. 540, 34 L.Ed.2d 482 (1972).

Respondent requests this court fairly, in an unbiased manner, consider the legitimacy of case A95-130 and allow it to go forward. Likewise, Judge Singleton should recuse himself due to the demonstrated bias and prejudice in case A91-478, and the orders entered April 13, 1995, in case A95-130.

VIII. This court lacks jurisdiction over any aspects of Case No. A91-478

Because this court ordered judgment-debtor proceedings to commence and continue under Magistrate Branson, notwithstanding the lack of jurisdiction and void orders and judgments as argued above, respondent filed for injunctive relief relative to the false arrest and confinement of respondent, and for injunctive relief due to the void orders and judgments. This court revisited the entire case (A91-478) and considered

the injunctive relief motion as a motion for reconsideration, and entered its order of February 28, 1995, which encompassed the entire case to date. Moreover, this court, Judge Singleton, entered another appealable order dated April 4, 1995, and the two orders filed April 13, 1995, respecting case no. A95-130. These orders have all been timely appealed and remain pending, these orders encompass all aspects of cases A91-478 and A95-130 causing complete jurisdiction to pass to the Ninth Circuit Court of Appeals.

When a proper notice of appeal has been timely filed, the general rule is that jurisdiction over any matters involved in the appeal is immediately transferred from the trial court to the appellate court. In re Consolidated Equity Properties, Inc., 136 B.R. 261, 265 (D.Nev. 1991); In re Thorpe, 655 F.2d 997, 998 (9th Cir. 1981). See also Petrol Stops Northwest v. Continental Oil Co., 647 F.2d 1005, 1010 (9th Cir. 1981).

This court lacks jurisdiction to consider or rule on any part of the two cases pending appeal to the Ninth Circuit. Any order or judgment entered by this court, or any further proceedings by the court, pending final adjudication by the Ninth Circuit, would be void for lack of jurisdiction. Respondent requests this court to stay all further proceedings pending the final outcome of the pending appeals.

XI. Renewed Request for Recusal

As a matter of law, Judge Singleton and Magistrate Branson have demonstrated bias and prejudice, which qualifies for immediate recusal under 28 U.S.C. §§ 144 and 455. Not only must all proceedings be stayed pending appeal, Judge

Singleton and Magistrate Branson must be recused as a matter of Alaska law, 28 U.S.C. § 144 and 28 U.S.C. § 455.

If a judge evidences a lack of impartiality, whatever its origin or justification, the judge cannot sit in judgment. State v. Walberg, 325 N.W.2d 687, 693 (1982), citing State v. Washington, 266 N.W.2d 597 (1978).

In S.S. v. Wakefield, 764 P.2d 70 (Colo. 1988), the Colorado Supreme Court stated:

> The purpose of this disqualification requirement is to prevent a party from being forced to litigate before a judge with a "bent of mind." (citations omitted). While a judge may be convinced of his own impartiality, he nonetheless may so act as to lead a party to reasonably conclude that he is biased or prejudiced in the pending litigation. It is this appearance of bias or prejudice which undermines not only a litigant's confidence in the fairness of the proceeding but also public confidence in the integrity and impartiality of the judicial system.

Amadon v. State, 604 P.2d 575 (Alaska 1979) discusses the Alaska standard applicable where an appellant seeks to obtain a reversal from the appellate court because of actual or an appearance of partiality. Other analogous Alaskan cases are Perotti v. State, 806 P.2d 325 (Alaska App. 1991) and Feichtinger v. State, 779 P.2d 344 (Alaska App. 1989).

CONCLUSION

This court should stay all proceedings in cases no. A91-478-CV and A95-130-CV until all pending appeals are finally adjudicated. Other than for staying these cases, both which are pending on appeal, this court lacks jurisdiction to proceed further in any aspect of the cases. Without jurisdiction, any orders or judgments would be void, subject to collateral attack, and reversible on further appeal.

No claim in A95-130-CV (JKS) should be stricken but should be fully litigated before a jury trial before an unbiased judge and court. Respondent has not intended to harass, increase costs, or engaged in vexatious litigation, but, rather, has sought to litigate causes of action and legal claims permitted under the constitution, statutes, and legal and equitable rights. Respondent should not be enjoined from exercising his constitutional, statutory, and equitable rights. Neither should respondent be required to pay a fine in any amount. Respondent requests fair and impartial justice in this matter.

Dated: May 15, 1995 /s/ Wayne Bolt

Wayne Bolt, Respondent

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

State Farm Fire and Casualty	)
Company, an Illinois corporation,	)
Plaintiff,	) 9CCA No. 95-35296
vs.	) DC# A91-478-CV (JKS)
	) DC# A95-130-CV (JKS)
Alex Wayne Bolt, Audrey Ann Bolt)	
White Mountain Mining Partners,	)
Nabesna Mining Partners, and	)
Colorado Resources, Inc.	)
Defendants.	)

MEMORANDUM OF LAW SUPPORTING LACK OF JURISDICTION BY THE DISTRICT COURT OVER DEBTORS IN BANKRUPTCY

This court was noticed on April 12, 1995, of chapter 11 petitions filed in U.S. Bankruptcy Court for Nabesna Mining Partners (NMP), White Mountain Mining Partners (WMMP), and Colorado Resources, Inc. (CRI), all of which were named defendants and are currently specific parties required by court order to participate in judgment-debtor proceedings brought on by State Farm Fire and Casualty Company under their void judgment that was entered on December 21, 1993, while debtor-defendant Bolt was protected by the automatic stay provisions of 11 U.S.C. § 362(a).

As a result of the notice of filings on April 12, 1995, this court ordered debtor to show cause why this court may be without jurisdiction to continue these instant judgment-debtor proceedings. As a matter of law and well-settled jurisdictional

precedent, this court lacks jurisdiction to continue the judgment-debtor proceedings, or any other aspect of this case, pending relief from stay under 11 U.S.C. § 362(d) and pending disposition of the appeals pending before the Court of Appeals for the Ninth Circuit of this court's order of February 28, 1995, and subsequent orders which denied injunctive relief which was sought to terminate these instant judgment-debtor proceedings as a matter of law.

1. **Filing a petition in bankruptcy stays other judicial proceedings against debtor.**

Once a petition for protection under the Bankruptcy Code is filed, all judicial proceedings against debtor are stopped. Insured defendants' filing of the bankruptcy petitions and notice to the U.S. District Court should stay, as a matter of law, the proceedings under 11 U.S.C. § 362. See Boynton v. Ball, 121 U.S. 457, 466-67. See also Ellis v. Consolidated Electric Corp., 711 F.2d 60-61 (9th Cir. 1983). Bankruptcy Code 11 U.S.C. § 362(a) states in pertinent part:

> 11 U.S.C. 362(a) operates as a stay, applicable to all entities, of — (1) the commencement or continuation, including the issuance or employment of process, of a judicial, administrative, or other action or proceeding against the debtor that was or could have been commenced before the commencement of the case under this title, or to recover a claim against the debtor that arose before the commencement of the case under this title;

> (2) the enforcement against the debtor or against property of the estate, of a judgment obtained before the commencement of the case under this title;
>
> (3) any act to obtain possession of property of the estate or of property from the estate or to exercise control over property of the estate;

The automatic stay is a basic protection afforded debtors under the bankruptcy laws. In particular, § 362(a)(3) protects debtor from:

> "Any act to obtain possession of property of the estate or of property from the estate or to exercise control over property of the estate." The second clause of § 362(a)(3), was added by the Bankruptcy Amendments and Federal Judgeship Act of 1984, Pub.L. No. 98-353, 98 Stat. 355, to clarify that the automatic stay extends to any exercise of control over property of the estate, Norton Bankr. Code Pamphlet 209 (1990-91 ed.), an amendment which effectively widened the scope of the stay. Collier's Bankr. Manual, ¶ 362.03 at 362-19—362-20 (3d ed. 1989).

In re Abrams, 127 B.R. 239, 241 (9th Cir. BAP 1991).

The automatic stay is a basic protection afforded debtors under the bankruptcy laws, and its scope is intended to be broad. In re Stringer, 847 F.2d 549, 551-52 (9th Cir. 1988); see also H.R.REP. No. 95-595, 95th Cong., 1st Sess. 340-41

(1977), reprinting in 1978 U.S.Code Cong. & Admin.News 5787, 5963, 6296.

It has been held that a policy of insurance is property of the estate, thus making § 362 applicable. A.H. Robins Company, Inc. v. Piccinin, 788 F.2d 994 (4th Cir.), cert. denied, 107 S.Ct. 251 (1986); Tringali v. Hathaway Machinery Co., Inc., 796 F.2d 553 (1st Cir. 1986); In re Minoco Group, 14 B.C.D. 1399 (9th Cir. 1986); and Scrima v. John Devries Agency, Inc., 103 B.R. 128 (W.D. Mich. 1989).

The scope of the automatic stay under 11 U.S.C. § 362(a) is broad. Assoc. of St. Croix Condominium Owners v. St. Croix Hotel Corp., 682 F.2d 446, 448 (3d Cir. 1982). "All proceedings are stayed, including ... judicial proceedings. Proceedings in this sense encompasses civil actions...." Id. Whether a specific judicial proceeding falls within the scope of the automatic stay must be determined by looking at the proceeding "at its inception." St Croix, 682 F.2d at 449. "That determination should not change depending on the particular stage of the litigation at which the filing of the petition in bankruptcy occurs." Id. Thus, the dispositive question is whether a proceeding was "originally brought against the debtor." Id. See also Teachers Ins. & Annuity Ass'n of America v. Butler, 803 F.2d 61, 64-65 (2nd Cir. 1986).

Section 362(d), 11 U.S.C., provides in part: "On request of a party in interest and after notice and hearing, the court shall grant relief from the stay provided under subsection (a) of this section, such as by terminating, annulling, modifying, or conditioning such stay—(1) for cause....". Only the bankruptcy court with jurisdiction over a

debtor's case has the authority to grant relief from the stay of judicial proceedings against the debtor. Cathey v. Johns-Manville Sales Corp., 711 F.2d 60, 62-63 (6th Cir. 1983), cert. denied, 478 U.S. 1021, 92 L.Ed.2d 740 (1986). The bankruptcy court may provide relief upon request of "a party in interest" and after notice and a hearing. See 11 U.S.C. § 362(d). Plaintiff State Farm sought no relief from stay until after final judgment was entered against insured defendants. No relief from stay had been sought at the time Judge Singleton entered the $10,000 sanction order against petitioner on October 1, 1993, at docket no. 328. No relief from stay had been sought by State Farm at the time final judgment was entered on December 21, 1993, at docket no. 361.

Actions taken against the debtor's property without knowledge of the stay will be null and void. Borg-Warner Acceptance Corp. v. Hall, 685 F.2d 1306 (11th Cir. 1982); Smith v. First America Bank, N.A., 876 F.2d 524 (6th Cir. 1989); In re Taylor, 884 F.2d 478 (9th Cir. 1989); Ellis v. Consolidated Diesel Electric Corp., 894 F.2d 371 (10th Cir. 1990) (actions taken in violation of stay are merely voidable); see Sikes v. Global Marine, Inc., 881 F.2d 176 (5th Cir., 1989); Picco v. Global Marine Drilling Co., 900 F.2d 846 (5th Cir. 1990); In re Schwartz, 119 B.R. 207 (9th Cir. Bankr. 1990) and cases cited therein; In re Calder, 907 F.2d 953 (19th Cir. 1990). Knowing violation may be contemptuous and result in an award of costs and attorneys' fees. See, e.g., Fidelity Mort. Investors v. Camelia Builders, Inc., 550 F.2d 47 (2d Cir. 1976), cert. denied 429 U.S. 1093 (1977); In re Asters, 4 C.B.C.2d 707 (Bankr. D.R.I. 1981).

2. **All actions taken, orders or judgments entered in violation of the automatic stay are void ab initio.**

The automatic stay under 11 U.S.C. § 362 suspends any non-bankruptcy court's authority to continue judicial proceedings then pending against the debtor. This is so because **§ 362's stay is mandatory and "applicable to all entities", including state and federal courts. 11 U.S.C. § 362(a).** See Boynton v. Ball, 121 U.S. 457, 466-67, 7 S.Ct. 981, 984, 30 L.Ed. 985 (1887) ("where the bankruptcy proceedings are brought to the attention of the court in which a suit is being prosecuted against a bankrupt, that court shall not proceed to final judgment until the question of his discharge shall have been determined."). See In re Highway Truck Drivers & Helpers Local 107, 888 F.2d at 299 n. 8 (if state court proceeds in violation of stay, "such proceedings would have been in excess of the state court's authority and subject to collateral attack"); Ellis v. Consolidated Electric Corp., 711 F.2d 60, 61 (9th Cir. 1983) ("the automatic stay of proceeding is applicable at both the trial and appellate levels"), cert. denied, 478 U.S. 1021, 106 S.Ct. 3335, 92 L.Ed.2d 740 (1986); Kommanditselskab Supertrans v. O.C.C. Shipping, Inc., 79 B.R. 534, 540 (S.D.N.Y. 1987) (if stay applies, "the district court's power to adjudicate the case is suspended pending the outcome of the bankruptcy proceedings").

The automatic stay's effect on judicial proceedings against the debtor does not depend upon whether the court finds for or against the debtor. Ellis v. Consolidated Electric Corp., 894 F.2d 371, 373 (10th Cir. 1990). Once triggered, the automatic stay of an action pending against the debtor in district court "continues until the bankruptcy case is closed,

dismissed, or discharge is granted or denied, or until the bankruptcy court grants some relief from the stay. 11 U.S.C. § 362(a), (c)(2), (d), (e), (f)." Pope v. Manville Forest Products Corp., 778 F.2d 238, 239 (5th Cir. 1985). See also In re De Jesus Saez, 721 F.2d 848, 851-2 (1st Cir. 1983) (stay terminates when chapter 13 petition is dismissed).

Absent relief from the stay, judicial actions and proceedings against the debtor are void ab initio. Kalb v. Feuerstein, 308 U.S. 433, 438-40, 60 S.Ct. 343, 346, 84 L.Ed. 370 ("the action of the ... Court was not merely erroneous but was beyond its power, void, and subject to collateral attack"). See also In re Ward, 837 F.2d 124, 126 (3rd Cir. 1988) (sheriff's sale conducted in violation of the stay is "void and without effect", citing Kalb).[1]

Not only are the final judgment and amended judgment void ab initio, all supplemental judgment debtor proceedings

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1. Other cases among the many holding that judicial acts in violation of the automatic stay are void, are these: In re Advent Corp., 24 B.R. 612 (1st Cir.Bankr.1982); In re 48th Street Steakhouse, Inc., 835 F.2d 427, 431 (2d Cir.), cert. denied, 485 U.S. 1035, 108 S.Ct. 1596, 99 L.Ed.2d 910 (1987); In re Smith, 876 F.2d 524, 526 (6th Cir. 1989); In re Shamblin, 890 F.2d 123, 125 (9th Cir. 1989); Ellis, 894 F.2d at 372; In re Albany Partners, Ltd., 749 F.2d 670, 675 (11th Cir. 1984); In re Joyce Purnell, 92 B.R. 625 (Bankr.E.D.Pa. 1988); In re Clark, 69 B.R. 885, 891, vacated in part on other grounds, 71 B.R. 747 (Bankr.E.D.Pa. 1987); In re A.I.A. Industries, Inc., 75 B.R. 1013, 1021 n. 5 (Bankr.E.D.Pa. 1987); In re Fasgo, Inc., 58 B.R. 99, 100 (Bankr.E.D.Pa. 1986); In re Marta Group, Inc., 33 B.R. 634, 639 (Bankr.E.D.Pa. 1983).

and executions by State Farm under void judgments are moot, improper, have no legal basis, must be vacated and subject State Farm to compensatory and punitive damages under 11 U.S.C. § 362(h).

3. **Pending appeals before the Ninth Circuit over the February 28, 1995, order denying injunctive relief removes all jurisdiction from this court.**

When a proper notice of appeal has been timely filed, the general rule is that jurisdiction over any matters involved in the appeal is immediately transferred from the trial court to the appellate court. In re Consolidated Equity Properties, Inc., 136 B.R. 261, 265 (D.Nev. 1991); In re Thorpe, 655 F.2d 997, 998 (9th Cir. 1981). See also Petrol Stops Northwest v. Continental Oil Co., 647 F.2d 1005, 1010 (9th Cir. 1981).

Motions for injunctive relief were filed seeking to terminate the judicially infirm judgment-debtor proceedings. This court initially refused to consider the injunctive relief motions, and subsequently considered the injunctive relief motion as a "motion for reconsideration" of the entire case and denied the injunctive relief motion by order of February 28, 1995, which has been timely appealed to the Ninth Circuit. This court's election to treat the motion for injunctive relief as a "motion for reconsideration," and this court's extensive order on "reconsideration" appears to give finality and appealability to insured defendants, which has now been docketed by the Ninth Circuit and a schedule has been established for the appellate process. This appeal covers all issues sought by the injunctive relief motion and all issues revisited by this court and "reconsidered" by this court in the February 28, 1995, order, which was all inclusive of the ongoing judgment-debtor

proceedings. The Time Schedule Order for this appeal has been established as shown on Exhibit B.

Once a timely filed notice of appeal was filed, all jurisdiction over matters on appeal pass to the appellate court. Upon notice of defendants' chapter 11 filing, plaintiff State Farm continued to aggressively prosecute the case against defendants in willful violation of the automatic stay, and with the direction and orders of the district court. Plaintiff State Farm successfully moved for monetary sanctions directly against Bolt while Bolt was protected by the automatic stay, and further, State Farm successfully moved for dismissal of Bolt's counter-claims while Bolt was protected by the automatic stay, and further State Farm obtained a final judgment declaring defendants had no coverage in the underlying litigation which deprived defendants of significant property rights. Plaintiff State Farm did not seek any relief from stay between August 25, 1993, and the entry of final judgment by the U.S. District Court on December 21, 1993. The final judgment, entered in violation of 11 U.S.C. § 362(a), deprived defendants of valuable insurance policy property rights. The district court lacked jurisdiction to enter final judgment denying insured defendants' policy rights and bad faith claims which were a substantial and valuable property interest of debtor and other insured defendants. All insured defendants were so intertwined and effectual of any reorganization in Bolt's chapter 11 proceedings so as to be fully protected by the automatic stay provisions of 11 U.S.C. § 362(a).

The U.S. District Court demonstrated bias and prejudice against all defendants, and made clear legal error by allowing plaintiff State Farm to aggressively prosecute the action which

should have been stayed, as a matter of law, when defendant Bolt filed his chapter 11 petition and gave formal notice to the district court. The district court also demonstrated bias and prejudice by entering a final judgment against defendant Bolt, who was a bona fide debtor fully protected by the automatic stay provision under 11 U.S.C. § 362(a).

This court should, as a matter of law, stay all proceedings in case no. A91-478. Insured defendants Wayne Bolt, NMP, WMMP, and CRI are debtors in bankruptcy and protected by 11 U.S.C. § 362(a). The final judgment entered on December 21, 1993, was in violation of the stay since Wayne Bolt was fully protected from all judicial proceedings under 11 U.S.C. § 362(a).

The Court of Appeals of the State of Washington has correctly applied this law in the case that triggered this entire litigation at the outset, and has withdrawn and vacated orders and judgments initially entered in violation of the automatic stay after Bolt filed chapter 11 and gave formal notice of the chapter 11 filing. See Exhibit A. The Court of Appeals of the State of Washington has correctly upheld the law. This court should do likewise and order the vacation of all orders and judgments entered after Bolt filed chapter 11 and noticed this court on August 27, 1993. Also NMP, WMMP, and CRI have now filed chapter 11 petitions. Insured defendants request immediate stay of these proceedings for the reasons and law cited.

The district court has no jurisdiction to continue any aspect of this case for lack of jurisdiction due to (1) the bankruptcy proceedings, and (2) pending appeals before the Ninth Circuit over all aspects of the case. This court has a

duty and obligation, as a matter of law, to stay all proceedings and go no further in any aspect of the case.

Dated: April 19, 1995 /s/ Wayne Bolt
Wayne Bolt

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

State Farm Fire and Casualty Co.,	)
Plaintiff,	) No. 91-478-CV (JKS)
vs.	)
	) Order
Alex Wayne Bolt, et al.,	) Filed April 13, 1995
Defendants.	)

ORDER DIRECTING ALEX WAYNE BOLT TO SHOW CAUSE IN WRITING WHY HE SHOULD NOT BE HELD IN CIVIL CONTEMPT AND FINED THE SUM OF $2,500 FOR VIOLATING THIS COURT'S ORDER AT DOCKET NO. 454 FORBIDDING BOLT FROM ATTEMPTING TO RELITIGATE AT THIS LEVEL ISSUES PREVIOUSLY DECIDED AGAINST HIM

State Farm Fire and Casualty Company ("State Farm") sued Alex Wayne Bolt and others seeking a declaration that it was neither obligated to defend Bolt and the other defendants, nor was it obligated to pay any successful claims brought against Bolt or the other Defendants in certain litigation pending in Alaska and Washington State superior court in which Bolt was charged with fraud and mismanagement of his various mining ventures. Eventually, State Farm recovered judgment against Bolt and substantial fees were awarded against Bolt because the Court found that he had engaged in bad faith litigation. During the course of the proceedings, all motion practice was vigorously litigated. The Court, after considering extensive memoranda from Bolt, decided the following issues, *inter alia*: 1) That this Court had subject matter jurisdiction

over the issues presented, personal jurisdiction over the parties, and jurisdiction to grant a declaratory judgment; 2) that any misnomer in the earliest pleadings regarding State Farm Fire and Casualty Company's true name was *de minimis*, did not affect this Court's jurisdiction to decide the case, and was properly corrected by amendment; 3) that no bankruptcy stay prevented any judgment or order of this Court from going into effect; 4) that Bolt and his companies had not basis for seeking recusal under 28 U.S.C. § § 144 and 455; 5) that under Alaska law the insurance policies issued to Bolt and his companies, a) did not entitle Bolt and the companies to a defense or indemnity in the then pending cases in Alaska and Washington, and b) did not entitle Bolt and his companies to pre-payment of attorney fees incurred in resisting the declaratory judgment action; and 6) that Bolt wilfully and contumaciously refused to comply with the discovery rules of this Court warranting dismissal of his counterclaims as a discovery sanction.

A final judgment has been entered in this case. Bolt moved for reconsideration of each of these decisions and the motion for reconsideration was denied. Undeterred, Bolt brought successive motions for reconsideration, sought stays, and requested injunctions, all based on repetitious presentation of these same previously rejected arguments. This Court therefore entered an order directing Bolt not to file, and the Clerk not to accept, any further motions for reconsideration or attempts by Bolt to relitigate issues that had previously been decided against him. Docket No. 454. The Court specifically informed Bolt that if he filed further pleadings in this Court seeking to relitigate the issues previously decided against him, the Court would hold him in civil contempt. Should the Court

find civil contempt, it will impose a fine and enforce collection of the fine, if necessary, by imprisoning Bolt unless and until he either pays the fine or establishes to the satisfaction of the Magistrate Judge that he is indigent and cannot pay the fines that have been levied against him and still meet his minimum subsistence needs.

In a transparent attempt to circumvent the orders of this Court, Bolt has filed a motion for reconsideration which he has labeled a complaint for damages, injunction, and declaratory judgment. Case No. A95-130 CV (JKS). The Clerk of Court reviewed the complaint, and finding the issues presented essentially the same as the issues in this case, and that the pleading arguably violated the Order this Court had issued barring Bolt from further motions for reconsideration, referred the matter to me in conformity with the internal rules of this Court which provide that all cases raising the same issues and involving the same parties must be assigned to the same judge for decision. Case No. A95-130 CV (JKS) has therefore been consolidated with this case.

The gravamen of Bolt's complaint is that the prior orders in this case which resulted in the judgment against him are erroneous and that attempts to enforce them give rise to civil liability. Federal Rule of Civil Procedure 11 provides in relevant part:

> 11(a) **Signature.** Every pleading....shall be signed...by the party [if he is not represented by an attorney]
>
> (b) **Representations to the Court.** By presenting to the court...a pleading ...an unrepresented party is certifying that to the best

> of the person's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances,
>
> (1) It is not being presented for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation;
>
> (2) The claims, defenses, and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;
>
> (3) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery;....
>
> (c) **Sanctions.** If, after notice and a reasonable opportunity to respond, the court determines that subdivision (b) has been violated, the court may...impose an appropriate sanction upon... [the] parties...that have violated subdivision (b) or are responsible for the violation.

Bolt's intransigence also constitutes a direct civil contempt of this Court. 18 U.S.C. §401(3) (disobedience of court order is a civil contempt punishable by fine); *see Chapman v. Pacific Tel. and Tel.*, 613 F.2d 193, 197 (9th Cir. 1979) (Attorney who believes court order is erroneous must

obey it and challenge it on appeal. Wilful disobedience of order, even if the order is erroneous, is grounds for a finding of contempt.). Finally, Fed. R. Civ. P. 12(f) provides that "...upon the court's own initiative at any time, the court may order stricken from any pleading any...redundant, immaterial, impertinent, or scandalous matter."

Had Bolt made a cursory investigation before filing the complaint in A95-0130 CV (JKS), he would have easily discovered that it was totally insufficient in law. Listed below are some of its more glaring inadequacies.[1]

1) Bolt relies upon diversity of citizenship for jurisdiction. *See* 28 U.S.C. § 1332. In order to have "complete diversity," no plaintiff may reside in the same district as any defendant. Bolt alleges that all parties, Plaintiff

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1. Bolt may believe that he can judge shop and obtain a reconsideration of his claims by a new judge through the simple expedient of bringing a totally frivolous law suit against Magistrate Judge Branson and I. Bolt is mistaken. The fact that he has joined us as defendants in this action does not require recusal where as here his claims are transparent attempts to manipulate the docket and obtain a rehearing to which he is not entitled. 28 U.S.C. § 144, 455; *Litecky v. United States*, 114 S.Ct. 1147, 1154-55 (1994) (discussing the circumstances under which a judge may be required to recuse). A litigant may not manipulate the administration of justice by threatening to sue or by actually suing the assigned judge. *Ronwin v. State Bar of Arizona*, 686 F.2d 692, 700-01 (9th Cir. 1981), *cert. denied*, 435 U.S. 954 (1978); *United States v. Grismore*, 564 F.2d 929 (10th Cir. 1977), *cert. denied*, 435 U.S. 954 (1978); *United States v. Blohm*, 579 F.Supp. 495 (S.D. N.Y. 1983).

and Defendants, are residents of Alaska. There is no diversity of citizenship.[2]

2) Bolt seeks to sue two judges of this Court. He alleges that maliciously motivated, they decided issues erroneously. Judges are absolutely immune from suit for damages by a dissatisfied litigant based on the decisions they reach and the orders they enter, no matter how maliciously the judge conducted her duties, and no matter how horrendous the ensuing damage. The only recourse available to someone injured as a result of an erroneous ruling is an appeal or application for extraordinary writ in an appellate court. Bolt cannot sue judges whose decisions he disagrees with. *See, e.g., Mireles v. Waco*, 502 U.S. 9 (1991); *Stump v. Sparkman*, 435 U.S. 349 (1978); *Pierson v. Ray*, 386 U.S. 547 (1967).

3) Bolt's pleading establishes that he knows that every claim upon which his complaint in A95-0130 CV (JKS) is based was previously presented to this Court in A91-478 CV (JKS) and decided against him. That in fact is the gravamen of his claim. Those prior rulings are, however, binding on Bolt under the doctrine of *res judicata* and cannot be relitigated in a new proceeding. If Bolt is dissatisfied with prior rulings, his only option is to appeal. *See DeNardo v. Municipality of Anchorage*, 974 F.2d 1200, 1201 (9th Cir. 1992). Bolt seems to think that because he claims that this Court's prior orders were entered without jurisdiction or, as Bolt puts it, this Court claimed jurisdiction it did not have, he may continue to

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2. It is arguable that this Court has jurisdiction under 28 U.S.C. § 1343 and *Bivens v. Six Unknown Named Agents of Fed. Bureau of Narcotics*, 403 U.S. 388 (1971).

relitigate the issues. Bolt is in error. Even if he were correct, which he is not, that this Court maliciously asserted jurisdiction it did not have, motivated by spite and ill will against Bolt, the fact that this Court decided that it did have jurisdiction is absolutely binding on Bolt and his only remedy is an appeal. *Res judicata* applies to erroneous judgments and orders to the same extent as it does to correct orders. Bolt cannot relitigate the question of this Court's prior jurisdiction at this level of court. *See, e.g., U.S. ex rel Robinson Rancheria Citizens Council v. Borneo, Inc.*, 971 F.2d 244, 250-51 (9th Cir. 1992) (court's decision that it has jurisdiction, even if erroneous, is absolutely binding in subsequent proceedings); *Americana Fabrics, Inc. v. L. & L. Textiles, Inc.*, 754 F.2d 1524, 1530-31 (9th Cir. 1985) (same). Bolt seems to think that if the bankruptcy stays really did apply to the action in this Court, which it did not for the reasons articulated at that time, orders of this Court in disregard of that stay are void and cannot be litigated at this time. Bolt is wrong. The issue of the applicability of the bankruptcy stay to the various orders issued in this case was fully litigated and I expressly held on more than one occasion that the bankruptcy stay did not control this case. Even if that decision was patently wrong, which it was not, Bolt would still be bound by that decision. *See, e.g., Picco v. Global Marine Drilling Co.*, 900 F.2d 846, 849-51 (5th Cir. 1990) (decision that bankruptcy stay did not preclude order, even if erroneous, is binding under *res judicata*).

4) Bolt has brought some miscellaneous claims against various private parties, bar associations, and federal offices. On inspection, it is clear that those claims depend upon a

determination that prior orders of this Court are enforceable.[3] Since Bolt is precluded from establishing that the prior orders are unenforceable by the doctrine of *res judicata*, it necessarily follows that these claims cannot survive either. In summary, Bolt cannot prevail on any of his claims at this level of court. Bolt cannot litigate the matters he wishes to litigate in this Court at this time. His sole remedy is in the appellate court.[4]

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3. Bolt's claims are akin to malicious prosecution. In order to state a claim for malicious prosecution, a litigant must show that the alleged malicious prosecution was resolved in his favor. *See, e.g., Shaw v. State Dep't of Admin., Public Defender Agency*, 816 P.2d 1358, 1362 (1991), *appeal after remand*, 861 P.2d 566 (Alaska 1993). The United States Supreme Court has adopted a rule similar to the Alaska Supreme Court's rule in *Shaw* to govern § 1983 claims alleging fraudulent procurement of a conviction. *See Heck v. Humphrey*, 114 S.Ct. 2364 (1994).

4. Bolt argues that he has somehow been deprived of an appellate remedy by this Court's unwillingness to certify interlocutory appeals pursuant to 28 U.S.C. § 1292. Interlocutory appeals are the rare exceptions. Most appeals are taken from final judgments to assure the appellate court that all issues will be before it in a single proceeding. There has been a final judgment in this case for some time which Bolt could have appealed. It is true that Bolt has filed many appeals which the Ninth Circuit has dismissed on jurisdictional grounds. As a result, the Circuit has apparently branded Bolt a vexatious litigant and required pre-screening of his appeals. Bolt seems to believe that if he does not agree with a judicial decision, he may rant and rave and it will go away. Bolt seems to think that if he is belligerent enough and stubborn

(continued...)

IT IS THEREFORE ORDERED:

Alex Wayne Bolt shall **SHOW CAUSE** in a written presentation filed on or before **Monday, May 15, 1995**: (1) why his claims in A95-130 CV (JKS) should not be stricken as a sham, and the issues raised therein dismissed with prejudice on the ground of *res judicata*, collateral estoppel, and absolute immunity; (2) why he should not be held in civil contempt of court and directed to pay a fine of $2,500 for willful violation of this Court's prior Order forbidding him from attempting to relitigate in this Court those issues previously decided against him, or in the alternative, why he should not be sanctioned in the amount of $2,500 for filing A95-130 CV (JKS) in order to harass those named in the action, increase costs, and engage in vexatious litigation without making a reasonable inquiry to determine if he could possibly state a claim against any of the parties named in that action; and (3) why this Court should not determine that Bolt is a vexatious litigant and enjoin him from bringing any further actions in this or any other court raising the issues previously decided against him in this case. *See, e.g., DeNardo v. Murphy*, 781 F.2d 1345 (9th Cir. 1986) (approving an injunction barring a vexatious litigant from

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4. (...continued)
enough he will get the last word, or at least confuse everything to the point that nothing gets accomplished. Bolt is in error. If he is to have any hope of a hearing in the appellate court, he is going to have to learn that litigants like children who throw temper tantrums are generally ignored and litigants like children who obey the rules and act civilly get all the attention they deserve.

bringing the same case again after it had previously been rejected). Oral argument would not be helpful. *See* Local General Rule 5(C). If Bolt fails to respond, his action will be dismissed, a $2,500 fine imposed, and Bolt will be given 48 hours to pay the fine or he will be arrested by the United States Marshall's Service and confined in a suitable place of incarceration until such time as he either pays all outstanding fines and sanctions or proves to the satisfaction of Magistrate Judge Branson that he is indigent and cannot pay any part of the sanctions without depriving himself and his dependents, if any, of the necessities of life.

Dated: April 13, 1995 /s/ James K. Singleton
Honorable James K. Singleton, Jr.
United States District Court Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

Alex Wayne Bolt, et al.,	)
Plaintiff,	) No. 95-130 CV (JKS)
vs.	)
	) Order
Judge James K. Singleton, et al.	) Filed April 13, 1995
Defendant.	)

ORDER

It appears that this action involves common questions of fact and law with another case now pending before this Court. *State Farm Fire and Casualty Co. v. Alex Wayne Bolt, et al.*, A91-478 CV (JKS); FED. R. CIV. P. 42.

IT IS THEREFORE ORDERED:

This case will be consolidated with A91-478 CV (JKS), and all future and further filings will be made in that earlier case, under its case number.

Dated: April 12, 1995 /s/ James K. Singleton
Honorable James K. Singleton, Jr.
United States District Court Judge

MINUTES OF THE
UNITED STATES DISTRICT COURT
DISTRICT OF ALASKA

State Farm Fire and Casualty Co., Plaintiff,	) No. 91-478-CV (JKS)
vs.	)
	) Order From Chambers
Alex Wayne Bolt, et al., Defendants.	) Filed April 11, 1995

This is an action for declaratory relief in which judgment has been entered against Wayne Bolt ("Bolt"), and two partnerships and a corporation, through which he conducts his mining business. While assigned to me for all purposes, I have referred judicial review of Plaintiff's collection efforts to the Honorable Harry Branson, Magistrate Judge. Bolt has been a vexatious litigant throughout. *See, e.g.*, Docket No. 455 (Ninth Circuit Pre-Filing Review Order dated March 31, 1995). He has consistently refused to abide by orders of this Court and continues to file repetitious motions for reconsideration. The Court has entered an Order directing the Clerk to refuse any further motions for reconsideration.

Magistrate Judge Branson informs me that Bolt has now instituted an action ostensibly for equitable and legal relief against Magistrate Judge Branson, myself, and others. *See, e.g., Bolt v. Singleton*, A95-0130 CV. Magistrate Judge Branson asks if this lawsuit requires his recusal and a stay pending proceedings against Bolt *sua sponte*. Magistrate Judge Branson should, of course, recuse if he is prejudiced against

Bolt, but I do not understand that to be the issue. Magistrate Judge Branson asks if, in the absence of actual bias, the pendency of this lawsuit forces a recusal under the appearance of justice standard. *See, e.g.*, 28 U.S.C. § 144, 455. I conclude that it does not. A litigant may not manipulate the administration of justice by threatening to sue or by actually suing the assigned judge. *See, e.g., Liteky v. United States*, 114 S.Ct. 1147, 1154-55 (1994); *Ronwin v. State Bar of Arizona*, 686 F.2d 692, 700-01 (9th Cir. 1981), *cert. denied*, 461 U.S. 938 (1983); *United States v. Grismore*, 564 F.2d 929 (19th Cir. 1977), *cert. denied*, 435 U.S. 954 (1978); *United States v. Blohm*, 579 F.Supp. 495 (S.D. N.Y. 1983); *In re Martin-Trigona*, 573 F.Supp. 1237 (D. Conn. 1983), *appeal dismissed*, 770 F.2d 157 (2d Cir. 1985), *cert. denied*, 475 U.S. 1058 (1986). I have examined the complaint with care and conclude that it is simply a new motion for reconsideration filed in blatant disregard of this Court's earlier orders. Magistrate Judge Branson should disregard this lawsuit and proceed with his judicial business unaffected by it unless and until an injunction is entered barring proceedings by the District Court or the Ninth Circuit Court of Appeals. *See Grismore*, 564 F.2d at 933.

IT IS THEREFORE ORDERED:

The action filed in A95-0130 CV does not on its face require Magistrate Judge Branson's recusal or any delay in pending proceedings in A91-0478 CV. Magistrate Judge Branson should ignore Bolt's lawsuit against him in this case

unless and until a court with jurisdiction in the case enters a restraining order. No such order exists at this time.[1]

Entered at the direction of the Honorable James K. Singleton, United States District Court Judge, by Ardel Burritt, secretary to Judge Singleton.

Date: April 10, 1995 SECRETARY'S INITIALS: ab

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1. Whether Magistrate Judge Branson should defend the lawsuit is a matter not now before me.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

ALEX WAYNE BOLT, individually, and as general partner of White Mountain Mining Partners and Nabesna Mining Partners, and as a shareholder of Colorado Resources, Inc.,
"Plaintiffs",

vs.

JUDGE JAMES K. SINGLETON, MAGISTRATE HARRY BRANSON, and the US DISTRICT COURT, DISTRICT OF ALASKA AT ANCHORAGE,
"Judiciary Defendants",

U.S. MARSHAL SERVICES,
"Federal Defendants",

STATE FARM INSURANCE COMPANY, an Illinois corporation; and JOHN DOES 1-10 as agents and counsel for non-existent State Farm Insurance Company an Illinois corporation;
STATE FARM FIRE AND CASUALTY COMPANY; ROGER S. JOSLIN; EDWARD B. RUSK JR; HAROLD D. COVEY; KEVIN MILLER; and RONALD L. MAZE,
"Insurer Defendants",

RONALD L. BLISS, JEAN E. KIZER, PHILLIP J. MOBERLY, A. MICHAEL ZAHARE, MARYANN BOREEN, and LAURA L. FARLEY,
"Insurer Counsel Defendants",

* * *

ANCHORAGE BAR ASSOCIATION, JOHNATHAN B. EALY as Director; ALASKA BAR ASSOCIATION, an Instrumentality of the State of Alaska; DEBORAH O'REGAN, as Executive Director; STATE OF ALASKA; AMERICAN BAR ASSOCIATION; ROBERT A. STEIN as Executive Director,

"Bar Defendants".

Case No. A95-130 CV

COMPLAINT FOR INJUNCTIVE RELIEF, DECLARATORY RELIEF, AND FOR DAMAGES

For its complaint, plaintiff alleges as follows:

PARTIES

1. Plaintiff Alex Wayne Bolt is an individual resident of Anchorage, Alaska and is an insured defendant and remains "managing agent" for three other defendants, White Mountain Mining Partners (WMMP), Nabesna Mining Partners (NMP), and Colorado Resources, Inc. (CRI). in U.S. District Court at Anchorage, Alaska, case no. A91-478-Civ.

2. "Judiciary defendants" include Judge Singleton, who heard and decided case no. A91-478-Civ., and Magistrate Branson, who presently is presiding over judgment-debtor proceedings initiated by "insurer defendants" and "insurer counsel defendants," and the U.S. District Court, District of Alaska, at Anchorage.

3. "Federal defendants" include the U.S. marshals who, without jurisdiction, falsely arrested and confined plaintiff in jail.

4. "Insurer defendants" included the alleged non-existent plaintiff parties, which initiated case no. A91-478-Civ. and parties that were substituted in as plaintiff mid-way through the case and replaced the initial non-existent party plaintiff.

5. "Insurer counsel defendants" are lawyers who represented the non-existent alleged party plaintiff, i.e., State Farm Insurance Company, an Illinois corporation, and, subsequently represented the substituted party plaintiff, "State Farm Fire and Casualty Company," in case no. A91-478-Civ.

6. "Bar defendants" are the Bar Associations and executive directors which serve as "employers" and "masters" of the bar members who represented, first, the non-existent party plaintiff, "State Farm Insurance Company, an Illinois corporation," and second, the substituted plaintiff, "State Farm Fire and Casualty Company" in case no. A91-478-Civ. The Alaska Bar Association is an instrumentality and common enterprise of the State of Alaska under AS 08.08.010.

JURISDICTION

7. The U.S. District Court has jurisdiction under 28 U.S.C. § 1332 for diversity of the parties; the amount of damages will exceed $50,000; and under 28 U.S.C. § 2201 since this action is seeking injunctive relief, declaratory relief, and damages.

FACTS

8. "Insurer defendants" caused a non-existent party plaintiff "State Farm Insurance Company, an Illinois corporation," to file, through "insurer counsel defendants," a declaratory judgment complaint, case no. A91-478-Civ., in the U.S. District Court in October 1991, against plaintiff and four other insured defendants, i.e., Ann Bolt, WMMP, NMP, and

CRI. The alleged plaintiff was a non-existent party making the action "moot" from the outset, causing the district court to lack jurisdiction either to hear or decide the case, when no actual "case or controversy" was present.

9. When the initial complaint was filed, defendant CRI was fully protected by the automatic stay provisions of 11 U.S.C. § 362 (a), making the complaint against CRI "moot" for lack of jurisdiction by the district court, and a willful violation of 11 U.S.C. § 362(a).

10. The declaratory judgment action proceeded and accelerated against defendant CRI, after non-existent plaintiff State Farm Insurance Company, an Illinois corporation, obtained a statutorily defective "non-applicability" order and "relief from stay" order from the U.S. Bankruptcy Court in In re Colorado Resources, Inc.. The "non-applicability" order and "relief from stay" order were obtained ex parte, from the bankruptcy court, without notice or hearing. Alleged non-existent plaintiff and related parties willfully violated 11 U.S.C. § 362 by filing the complaint against CRI at the outset.

11. Defendant Judge Singleton refused to dismiss the action when defendants in case no. A91-478-Civ. moved for dismissal due to "mootness" caused by a non-existent party plaintiff defeating jurisdiction. On a motion filed by "State Farm Fire and Casualty Company," a party without standing in the case, Judge Singleton ordered "State Farm Fire and Casualty Company" to be substituted in as the plaintiff party mid-way through the case because of a "misnomer."

12. Defendant Judge Singleton, at all times, accepted jurisdiction, and insisted on retaining alleged jurisdiction, over case A91-478-Civ., over objections of defendants, and

notwithstanding (1) the legal non-existence of the named party plaintiff; (2) multiple motions and arguments that the case included no federal question; (3) had only issues of state law and restricted to state jurisdiction under, provisions of the McCarran-Ferguson Act, 15 U.S.C. §§ 1011-12 (1988), wherein Congress, by law, expressly established insurance law to be under state jurisdictions; (4) the tentative and unlitigated status of the three underlying lawsuits, which had been tendered to "State Farm Fire and Casualty Company" for defense and indemnification coverage; and (5) the lack of jurisdiction under the Declaratory Judgment Act, and other reasons, as argued clearly by insured defendants in case no. A91-478-Civ.

13. When defendants in case no. A91-478-Civ. moved for dismissal, for lack of jurisdiction and other legal reasons, defendant Judge Singleton never entered any findings of fact or conclusions of law which justifies or supported his assumption of jurisdiction over the case. Instead, Judge Singleton only stated "I have jurisdiction."

14. About mid-way through the case, and after defendants in case no. A91-478-Civ. moved for dismissal due to non-existent party plaintiff, defendant Judge Singleton allowed "State Farm Fire and Casualty Company" to be substituted in as the plaintiff party to replace "State Farm Insurance Company, an Illinois corporation," because of a "misnomer" mistake alleged to have been made by insurer counsel defendants. The motion to substitute was made by the non-existent party who had no standing to move for substitution.

15. Defendant Judge Singleton, without jurisdiction in a "moot" case granted "State Farm Fire and Casualty Company," a summary judgment of no-coverage in the three underlying lawsuits, out of a motion for summary judgment filed while non-existent alleged plaintiff "State Farm Insurance Company, an Illinois corporation" was the named plaintiff and before "State Farm Fire and Casualty Company" became the substituted plaintiff and had no standing.

16. Defendant Judge Singleton, without jurisdiction and in a "moot" case, granted "State Farm Fire and Casualty Company" summary judgment of no coverage, notwithstanding obvious genuine issues of material fact clearly documented in the record and filed by all insured defendants, and filed by substituted party "State Farm Fire and Casualty Company" in case no. A91-478-Civ. Genuine issues of material facts which, as a matter of law, precluded the grant of summary judgment to State Farm Fire and Casualty Company included clear jurisdictional questions and other issues, i.e., legally non-existent plaintiff, no federal question, issues of state law only under the McCarran-Ferguson Act, violation of CRI's automatic stay under 11 U.S.C. § 362(a), unresolved issues of waiver and estoppel; all of which were pending before the court when Judge Singleton granted summary judgment to the substituted party, State Farm Fire and Casualty Company.

17. Summary judgment, as a matter of law, cannot be effectively granted when issues of waiver and estoppel are before the court. Further, defendant Judge Singleton based his grant of summary judgment, to the substituted party plaintiff, solely on the outdated and judicially infirm "four corners" concept of insurance coverage, and not on the facts, law, and

evidence in the case. See Exhibit A for arguments made against summary judgment and for a factual overview of the cases underlying the declaratory judgment action in case no. A91-478-Civ.

18. When summary judgment was granted, "State Farm Fire and Casualty Company," with demonstrated bad faith and outrageous misconduct, stopped all defense of insureds in the underlying cases, although they had controlled all aspects of the defense for more than 16 months under reservations of rights letters. Insured defendants had no financial resources to hire counsel to defend either the underlying litigation or to defend the declaratory judgment action, which was the most hostile of all pending litigation. Insureds had purchased insurance to provide coverage, not to become defendants having to defend a bad faith, vexatious, hostile, and criminal declaratory judgment action initiated by their own insurer.

19. The bad faith acts and malicious litigation by "State Farm Fire and Casualty Company" and its counsel bankrupted and destroyed insured defendants in case no. A91-478-Civ. Plaintiff Bolt was forced into bankruptcy in August 1993, due to the bad faith and tortious acts of the "insurer defendants" and "insurer counsel defendants" who were assisted by the "judiciary defendants." Further, insureds suffered financial and property damage and loss with an estimated value of $30,000,000, due to tortious breach of contract, fraud, conspiracy, outrageous conduct, willful misrepresentation, and bad faith of "insurer defendants" and "insurer counsel defendants" in case A91-478-Civ. and the related underlying cases. Rather than provide the insurance coverage bargained

for and acquired by insureds, their insurer and its counsel set out to, and did, destroy its insureds, with help from the prejudiced and biased "judicial defendants."

20. The grant of summary judgment against CRI was "void." Neither the district court nor Judge Singleton in the "moot" case had any jurisdiction over CRI which was protected by the automatic stay provisions under 11 U.S.C. § 362(a). The purported "non-applicability" order and "relief from stay" order, obtained ex-parte from the U.S. Bankruptcy Court, was statutorily defective when requested by a legally non-existent party, who was not a "party in interest," having no standing to seek relief from stay; and when the ex parte orders were obtained from the bankruptcy court without notice and hearing as statutorily required under 11 U.S.C. § 362. Further, any action taken while in violation of 11 U.S.C. § 362 is void and without effect.

21. Insured defendants in case no. A91-478-Civ. filed motions for injunctive relief under 28 U.S.C. 1292(a), against granting summary judgment to substituted party, "State Farm Fire and Casualty Company," which were summarily denied by Judge Singleton, without any hearing, in violation of constitutional due process. The grant of summary judgment denied defendants of protected property rights. Insurance policies are "property" of a bankruptcy estate and are protected by the automatic stay provisions under 11 U.S.C. § 362. Defendants filed notices of appeal to the Court of Appeals for the Ninth Circuit, which were denied and returned on the same day by the Ninth Circuit due to Judge Singleton's direct interference, control, and vindictive acts against insured defendant Bolt and Bolt's temporary counsel who entered the

case to argue summary judgment issues for Bolt. Defendant Judge Singleton's intentional interference with plaintiff's appellate rights, issuing under denial of injunctive relief actions under 28 U.S.C. § 1292 (a) violated defendants' constitutional due process rights, and denied defendants their equal access and equal protection rights of redress to the courts.

22. Insured defendants in case no. A91-478-Civ. filed proper and supporting affidavits and motions for recusal of Judge Singleton who summarily denied the motion for recusal in violation of 28 U.S.C. § 144 and Alaska Statute 22.20.022. Judge Singleton, without jurisdiction and in a moot case, demonstrated absolute bias and prejudice against all insureds and showed absolute favoritism toward "insurer defendants" and "insurer counsel defendants." Insured defendants, in good faith, believed they were severely prejudiced throughout the "moot" case by the bias and prejudice directed against insureds and in favor of the non-existent plaintiff and substituted replacement, "State Farm Fire and Casualty Company" and their attorneys.

23. Insured defendants made multiple motions for hearings in case no. A91-478-Civ. Judge Singleton, using bias and prejudice, refused to allow "pro se" litigants to have a hearing on any issue, even summary judgment motions involving property rights. Even when defendants had temporary counsel, they, too, were denied any right to any hearing, which violated constitutional due process rights of the insureds.

24. "Insurer defendants" and "insurer counsel defendants" aggressively, knowingly, and willfully prosecuted case no. A91-478-Civ. against CRI, which clearly violated the

automatic stay under 11 U.S.C. § 362. Filing the initial complaint and prosecuting the "moot" case against insured defendant CRI while CRI was protected under the automatic stay provisions of 11 U.S.C. § 362 was an intentional and willful violation of 11 U.S.C. § 362 justifying mandatory compensatory and punitive damages under 11 U.S.C. 362 (h).

25. While defendant Judge Singleton ordered insured defendants to answer discovery requests and produce tens of thousands of documents, Judge Singleton ordered that "State Farm Fire and Casualty Company" did not have to provide any discovery to the pro se insured defendants in case no. A91-478-Civ. Judge Singleton, arbitrarily, capriciously, and with abuse of discretion, and as a clear error of law, denied insured defendants their insurance coverage in defending the declaratory judgment action and in defending the underlying lawsuits. Insured defendants answered and defended the declaratory judgment action "at the request" of their insurer, which had a contractual obligation to pay, contemporaneously, all insured defendants' defense costs and attorney fees under the clear, unambiguous "supplemental payments" section of the policies.

26. Defendant Judge Singleton denied insureds their right of a jury trial in the case, although a jury trial was timely demanded by all insured defendants.

27. Insured defendant Alex Wayne Bolt was forced to file a chapter 11 petition in U.S.Bankruptcy Court, District of Alaska, Anchorage, on August 25, 1993, and gave formal notice in the U.S. District Court on August 27, 1993, at docket no. 317. Attached as Exhibit B. Plaintiff Bolt's bankruptcy filing was directly attributable to the bad faith and breach of

contract by State Farm Fire and Casualty Company in maliciously denying insurance coverage in the underlying lawsuits and the declaratory judgment action to its insureds. Notice to the court of plaintiff's bankruptcy filing required a stay in the proceedings. Bolt was referred to as the "managing agent" of all insured defendants by Judge Singleton. Bolt was sole general partner of insured WMMP, which as a shareholder owns controlling equity interest of CRI; Bolt was managing general partner of insured NMP, which is an equity interest shareholder of CRI; Bolt is an insured individual shareholder of CRI and is a equity owner of both partnerships. All insured defendants were inextricably intertwined with debtor Bolt, protected by the automatic stay and required a stay of the proceedings. The insurance coverage being litigated in the declaratory judgment action had a direct bearing on the possibility of effective reorganization in Bolt's and CRI's bankruptcy.

28. Upon notice to the court of Bolt's chapter 11 bankruptcy filing, defendant Judge Singleton did not stay the proceedings, but, instead, allowed acceleration of the case in total disregard of Bolt's chapter 11 petition and by abuse of discretion, arbitrary and capricious acts, permitted violations of the automatic stay provisions of 11 U.S.C. § 362. Defendant Judge Singleton, without jurisdiction, ordered an immediate status report and ordered Bolt to make full discovery and ordered Bolt to produce tens of thousands of irrelevant, non-necessary and totally non-related documents at an estimated cost of more than $12,000 to Bolt who was unable to comply. Judge Singleton ordered that State Farm Fire and Casualty

Company did not need to comply with open discovery requests filed against them.

29. The automatic stay under 11 U.S.C. § 362, as a matter of law, stopped all actions against Bolt, as a debtor in bankruptcy, unless and until a statutorily effective relief from stay order was granted by the U.S. Bankruptcy Court to permit judicial action to continue against debtor. State Farm Fire and Casualty Company neither sought nor received any relief from stay to proceed against Bolt prior to entry of final judgment but aggressively continued the judicial proceedings against Bolt with the blessings of Judge Singleton. While Bolt was protected by the automatic stay, defendant Judge Singleton entered on October 1, 1993, a $10,000 sanction order (docket no. 328) against Bolt for failing to make discovery and failing to produce tens of thousands of documents to State Farm Fire and Casualty Company. Bolt was in bankruptcy, had no money, and could not hire counsel to defend the declaratory judgment action.

30. While Bolt was fully protected by the automatic stay, State Farm Fire and Casualty Company moved for dismissal of insureds' counter-claims and the remaining issues in the case and for entry of final judgment. By order filed December 21, 1993, Judge Singleton, in a malicious violation of 11 U.S.C. § 362, entered final judgment in the case against Bolt and the other insured defendants to include CRI. State Farm Fire and Casualty Company had not sought, in any way, or obtained any relief from stay to proceed against Bolt and the other defendants. The final judgment was ordered jointly and severally against all insured defendants, but with primarily an attack on Bolt, as "managing agent" of all defendants.

31. After defendant Judge Singleton, without jurisdiction, and by exercising a grave abuse of discretion, entered the final judgment, State Farm Fire and Casualty Company then moved for relief from stay in the bankruptcy court and obtained a statutorily defective ex parte relief from stay in Bolt's bankruptcy case without notice or hearing. Further, acts taken in violation of 11 U.S.C. § 362 are void, causing their motion for relief from stay to be void, when filed while they were in willful violation of 11 U.S.C. § 362. State Farm Fire and Casualty Company then moved for attorney fees and for an amended final judgment to include attorney fees. Insured defendants opposed the relief from stay and attorneys fees to no avail. Insured defendants moved for vacation of judgment, amendment of judgment, and reconsideration of defendant Judge Singleton's orders and final judgment. Notwithstanding, defendant Judge Singleton entered an amended final judgment, which awarded State Farm Fire and Casualty Company more than $99,000 in attorneys fees against insureds. A "void" judgment cannot be effectively amended, making the issue of attorneys fees moot and invalid.

32. Insured defendants were required by judicial process of court summons to "answer and defend" the "moot" initial complaint. By specific insurance policy language, when insureds answer and defend a declaratory judgment action, the insures are complying "at the request" of the insurer, which, by contract, requires the insurer to pay insureds defense costs and attorneys fees. Further, payment is to be made contemporaneously by the insurer. "State Farm Fire and Casualty Company," in bad faith and tortious breach of

contract policy language, sought attorneys fees from insureds rather than pay insureds their defense costs and attorneys fees.

33. Insured defendants filed post-amended final judgment motions to vacate, to amend, and a Rule 60(b) motion to vacate the "void" judgments. Defendant Judge Singleton refused to consider and rule on these post-judgment motions and returned them by mail, after they were properly filed with the clerk of the court. Defendant Judge Singleton then entered another order which ordered:

> IT IS THEREFORE ORDERED: THE CLERK OF THIS COURT IS DIRECTED TO REFUSE TO FILE OR LODGE ANY FURTHER MOTIONS FOR REHEARING, FOR RECONSIDERATION, FOR RELIEF FROM JUDGMENT, FOR ARREST OF JUDGMENT, TO VACATE JUDGMENT, FOR NEW TRIAL OR TO STAY PROCEEDINGS FROM ALEX WAYNE BOLT ACTING FOR HIMSELF OR FROM ALEX WAYNE BOLT PURPORTING TO ACT FOR ANY OTHER PERSON OR ENTITY WHICH RELATE TO THIS ACTION, A91-0478 CIVIL. SHOULD BOLT PRESENT ANY SUCH PAPERS EITHER PERSONALLY OR THROUGH AN AGENT THEY ARE TO BE RETURNED TO HIM OR TO HIS AGENT FOR RETURN TO HIM. A copy of this Order shall be placed in a conspicuous place in the file in this action. (capitalization in original)

34. Judge Singleton's order refusing insureds access to the court to vacate, and the right to file post-judgment motions to vacate void orders was in violation of insureds constitutional rights of due process and equal access to the courts.

35. Insured defendants filed timely, but premature, notices of appeal. Post- amended judgments remained pending. No final appealable judgments had been effectively entered, since two defendants were protected by 11 U.S.C. § 362, and no certification under Rule 54 had been entered in the case. Only CRI has an appeal pending at the present time. CRI's appeal is "moot" for lack of jurisdiction of the Ninth Circuit. The remaining insured defendants elected to not prosecute the "moot" appeals since no effective final appealable judgment or amended judgment was ever entered in the case. The district court lacked jurisdiction from the outset, and all orders and judgments were void ab initio for lack of jurisdiction in the district court. The alleged final judgment did not dispose of all the issues against all the parties making the final judgment non-final and non-appealable under Fed.R.Civ.P. 54. All actions, orders, and judgments entered in violation of 11 U.S.C. § 362 are void.

36. Defendant Judge Singleton maliciously interfered with the Ninth Circuit court by directing the Ninth Circuit to improperly refuse to consider post-appeal motions by insured defendants. Insureds filed motions before the Court of Appeals for the Ninth Circuit to stay or dismiss for lack of jurisdiction. The Ninth Circuit clerk denied and returned the motions prior to the required motion response time. Counsel for CRI insisted, over its client's objections, to continue to prosecute

CRI's "moot" appeal. CRI fired its counsel who insisted on prosecuting the "moot" appeal for the personal benefit of CRI's counsel, and against the body of law and legal precedent against the actions taken by CRI's ex-counsel in his attempts to "create" jurisdiction. Other insureds filed an objection and made cross-motions to dismiss the CRI appeal and the judgments for lack of jurisdiction. The Ninth Circuit clerk summarily rejected the opposition and cross-motions for lack of standing and ordered insureds to make no more filings in the Ninth Circuit. Exhibit C. Insureds filed for en banc hearing by the full court on the jurisdictional issues and CRI's pending "moot" appeal, and for sanctions against counsel. The en banc filing remains pending on the date this Complaint is filed.

37. In November 1994, "insurer defendants" and "insurer counsel defendants" initiated judgment-debtor proceedings, under the "void" judgment and "void" amended final judgment, entered against plaintiff and other insured defendants in case no. A91-478-Civ. Defendant Magistrate Branson was assigned by Judge Singleton to conduct the judgment-debtor supplemental proceedings.

38. Plaintiff Bolt objected to the judgment-debtor proceedings and demonstrated good cause, as was permitted and clearly in accord with 28 U.S.C. § 1826. The judgment-debtor proceedings were judicially infirm and were proceeding under orders and judgments that were void ab initio. Injunctive relief motions were filed by Bolt to stop the judgment-debtor hearings. Exhibit D. Magistrate Branson refused to hear the injunctive relief motions because Judge Singleton had ordered that Bolt could not file any other pleadings in his court. After ex parte meetings with "insurer counsel defendants" and Judge

Singleton, Magistrate Branson ordered the arrest and confinement of insured defendant Bolt for disobeying an alleged court order and "in order to persuade" Bolt to comply with the void and judicially infirm orders and judgments and to participate in the judgment-debtor hearings. Plaintiff Bolt filed a notice of appeal to the Ninth Circuit on Magistrate Branson's refusal of the motion for injunctive relief prior to Bolt's false arrest and confinement, Magistrate Branson ignored the appeal and after ex parte meetings with "insurer counsel defendants," and without jurisdiction, ordered the false arrest, confinement and imprisonment of Bolt. Further, Magistrate Branson issued, under the void orders and judgments, and without jurisdiction, a restraining order over all assets and property of insured defendants, to include WMMP, NMP, CRI, Ann Bolt, and Wayne Bolt. The initial restraining order was entered without notice and hearing and has now been extended into a permanent restraining order, which constitutes conversion under Alaska law.

39. All parties being restrained have been ordered by Judge Singleton to not file any more pleadings in the case, but must appear and participate in the "void" judgment-debtor hearings. Notices of appeal, recusal motions, motions to stay, etc. have been rejected by the clerk of the court and returned to plaintiff. See Exhibit E.

40. While under arrest and in confinement, Bolt was ordered to either stay in jail or to agree to produce tens of thousands of documents to "insurer counsel defendants" to include more than 20,000 documents, currently under the custody, control, and seal of the Alaska State Superior Court and which remains subject to an appeal pending before the

Alaska Supreme Court. The State Superior court has ordered these records not be made available "to anyone" until after the final appeals are concluded. Magistrate Branson totally ignored the Superior Court order and ordered Bolt to produce all the documents to "insurer counsel defendants," and order "insurer counsel defendant" Ron Bliss to "obtain these records."

41. Insured Bolt objected to producing the 20,000 sealed documents which Magistrate Branson ordered to be produced. Almost simultaneously, Magistrate Branson maliciously enlarged his production order to include all insureds' records and documents covering the past ten years, none of which would have any bearing over insured defendants' existing assets on which "State Farm Fire and Casualty Company" could execute on under their "void" judgment and "void" amended judgment. Such expanded ten-year period was arbitrary, capricious, and abuse of discretion and done without jurisdiction and with prejudice and bias against plaintiff Bolt and the other insureds.

42. Plaintiff Bolt filed motions for injunctive relief based on lack of jurisdiction, to stop the pending judgment-debtor proceedings, and to vacate the "void" judgment and amended judgment, which allegedly gave rise to the judgment-debtor proceedings. Magistrate Branson refused to hear or consider the injunctive relief motion, but instead subsequently verbally ordered the arrest and confinement of plaintiff Bolt. After Magistrate Branson verbally ordered Bolt's arrest and confinement, and the day before the warrant for arrest was issued, plaintiff Bolt filed an effective notice of appeal under 28 U.S.C. § 1292(a) with the clerk of the district court, due to Magistrate Branson's "refusal" of the motion for injunctive

relief. Magistrate Branson maliciously ignored the notice of appeal and his lack of jurisdiction and signed a written order for the arrest of plaintiff Bolt, after Magistrate Branson met ex parte with "defendant insurer counsel" and met with Judge Singleton. The arrest and confinement order was malicious, outrageous, arbitrary, capricious, and an abuse of discretion and intended to injure, harm, and prejudice plaintiff Bolt in case no. A91-478-Civ. and other pending cases in which plaintiff Bolt is an active party. The arrest and confinement was a conspiracy against plaintiff Bolt entered to harm, injure, defame, and impair Bolt's credibility in this case and other cases, for the direct benefit of "insurer defendants" and "insurer counsel defendants."

43. The false arrest and confinement of Bolt was done with malice and by usurpation of judicial power, and was done without having jurisdiction to do so. "Federal defendants" falsely arrested, confined, and falsely imprisoned plaintiff and, in so doing, handcuffed, chained, and shackled plaintiff for transport to and from his place of business and between the U.S. courthouse and the state jail using undue force, abusive restraining, and with verbal and physical abuse with malicious, willful, and intentional acts of provocation and unjust, unfair, and intimidating acts, as part of the overall judicial fraud and conspiracy orchestrated by the "judiciary defendants" and "federal defendants" against a pro se litigant seeking justice under the law and court rules. While illegally confined by U.S. marshals, plaintiff was denied the right to speak to an attorney, was not informed of his rights nor given a copy of the warrant for arrest. Plaintiff was booked, photographed, fingerprinted, and questioned before receiving

notification of his rights. Plaintiff Bolt was held in solitary confinement without paper, pencil, or the ability to talk with counsel in solitary confinement for almost three days.

44. The "judiciary defendants," "insurer defendants," and "insurer counsel defendants" have participated in outrageous conduct, negligent misrepresentation, and conspiratorial acts to harm, injure, and damage insured defendants by denying proper insurance coverage, causing irreversible damage, inflicting emotional distress, personal injury, mental distress by false arrest and imprisonment, taking property without due process, violating constitutional due process, denying equal access to the court, and equal protection under the law. Further, these defendants have engaged in fraudulent and conspiratorial acts, malicious prosecution, and false arrest, causing defamation of character, harm, grief, mental distress, personal injury, defamation, and irreversible damage, loss of property, loss of business advantage, and caused defamation, and prejudice to insured defendants in case no. A91-478-Civ. Defendants willfully, intentionally, and with malice sought to injure, damage, and destroy the pro se litigants who abided by the court rules and sought equal justice under the federal and state constitutions and the law.

45. "Bar defendants" are vicariously liable for the misconduct of the "judiciary defendants" and "insurer counsel defendants." Bar defendants establish and control the education curriculum, accreditation of law schools, post-law school training, all lawyer licensing, and disciplinary actions. "Bar defendants" exercise "control," ("employer-employee" or "master-servant" law and precedent) under the "judiciary defendants" and "insurer counsel defendants."

46. As "employers" or "masters," "bar defendants" have joint and several liability for the tortious conduct, intentional and negligent violation of statutes and law, fraud, conspiracy, outrageous, willful, negligent, and malicious conduct of its members, servants, and/or employees. Bar defendants "control" their bar members, to include the judiciary, and are vicariously liable for their acts. "Judiciary defendants" and "insurer counsel defendants" have a "motivation to serve" "bar defendants" in order to remain licensed as practicing attorneys, creating a respondent superior relationship, resulting in vicarious liability between them.

47. No attorney can practice law in Alaska without being a current paid member of the Alaska Bar. This monopolistic "enterprise" is established as an "instrumentality" of the State of Alaska, which has direct vicarious liability for tortious acts committed by its members, employees, and/or servants.

48. "Insurer defendants" and "insurer counsel defendants" have operated in bad faith and breached their duty of good faith and fair dealings by willfully violating 11 U.S.C. § 362 and attempting to execute on "void" orders and judgments. Further, insurer defendants have tortiously denied insureds the rights bargained for under the policies, all of which has caused injury, harm, damage, and loss to insureds.

COUNT I - INJUNCTIVE RELIEF

49. Plaintiff realleges and reincorporates paragraphs 1 to 49 herein.

50. Plaintiff seeks an immediate injunctive relief order for recusal of Judge Singleton and Magistrate Branson under 28 U.S.C. § 144 and Alaska Statute 22.20.022, and for

an order assigning case A91-478-Civ. to the presiding judge effective immediately.

COUNT II - INJUNCTIVE RELIEF

51. Plaintiff realleges and reincorporates paragraphs 1 to 51 herein.

52. Plaintiff seeks an immediate injunctive relief order to stay all proceedings in case no. A91-478-Civ. until resolution of current pending plaintiff's appeals of Judge Singleton's order entered February 28, 1995. "Judicial defendants," by arbitrary, capricious, and abuse of discretion acts, denied insureds WMMP, NMP, and CRI the right to file an appeal as permitted by the constitution, law, and under Federal Rules of Appellate Procedure. The timely filed notice of appeal by these parties was returned by the clerk of the court by cover letter dated March 29, 1995. See Exhibit E. Such denial of insureds' right to file an appeal violates insureds' constitutional due process under the U.S. and Alaska constitutions. Further, such act denies insureds equal access to the courts and equal protection under the U.S. and Alaska constitutions and established law. "Judicial defendants" have no jurisdiction to continue any aspect of this case pending appeals of this court's February 28, 1995, order, which denied injunctive relief on the issues of jurisdiction, and denied injunctive relief requested to stop the judgment-debtor examinations and hearings being conducted under "void" orders and judgments. Plaintiff also seeks an immediate injunctive order to stay all proceedings, to include all supplemental judgment-debtor hearings, depositions, and discovery orders for a period of thirty (30) days to allow the presiding judge to

review the status and rule on jurisdiction issues in case no. A91-478-Civ.

COUNT III - INJUNCTIVE RELIEF

53. Plaintiff realleges and reincorporates paragraphs 1 to 53 herein.

54. Plaintiff seeks, as a matter of law, an immediate order by the presiding judge which vacates all orders and judgments entered in case no. A91-478-Civ. for lack of jurisdiction over the parties and subject matter. Plaintiff further seeks an immediate order which specifically vacates all orders and judgments that were entered subsequent to August 25, 1993, as void ab initio due to lack of this court's jurisdiction and due to violations under the automatic stay provisions of 11 U.S.C. § 362. Alleged plaintiffs in case no. A91-478-Civ. had not sought or obtained any relief from stay from the bankruptcy court between August 25, 1993, and December 21, 1993, when Judge Singleton entered the final judgment, jointly and severally, against all defendants, including Bolt. All orders and judgments entered against a debtor in bankruptcy without statutorily effective relief from stay are void ab initio, as a matter of law, for lack of jurisdiction by the U.S. District Court, and, further, are "void." See Kalb v. Feuerstein, 308 U.S. 433, 438-440. Vacation of the "void" orders and judgments entered without jurisdiction of this court and in violation of 11 U.S.C. § 362 will "moot" the pending appeals before the Ninth Circuit on this court's February 28, 1995, order. Vacation of the void judgments will also render "moot" the pending en banc petition pending before the Ninth Circuit Court of Appeals.

COUNT IV - INJUNCTIVE RELIEF

55. Plaintiff realleges and reincorporates paragraphs 1 to 55 herein.

56. Plaintiff seeks an immediate injunctive order dissolving and vacating this court's restraining orders of November 3, 1994, and February 8, 1995, in case no. A91-478-Civ., which illegally and improperly restrained access to and use of insureds' assets, which constituted acts conversion under Alaska law.

COUNT V - INJUNCTIVE RELIEF

57. Plaintiff realleges and reincorporates paragraphs 1 to 57 herein.

58. Plaintiff seeks an injunctive relief order terminating all attempts by "insurer defendants" and "insurer counsel defendants" to obtain the "sealed records" being held under the custody, control, and seal of the Alaska State Superior Court in the "Ptarmigan case," presently pending before the Alaska Supreme Court.

COUNT VI - INJUNCTIVE RELIEF

59. Plaintiff realleges and reincorporates paragraphs 1 to 59 herein.

60. Plaintiff seeks an injunctive relief order for the immediate release and return to plaintiff of all records ordered into the custody of CRI's attorney for use in the improper and "void" judgment-debtor proceedings under the "void" orders and judgments in case no. A91-478-Civ.

COUNT VII - DECLARATORY JUDGMENT RELIEF

61. Plaintiff realleges and reincorporates paragraphs 1 to 61 herein.

62. Plaintiff seeks a declaratory judgment, as a matter of law, that all actions, orders, and judgments entered by "judiciary defendants" without jurisdiction, give rise to personal liability of "judiciary defendants" for all harm, injury, damage, loss, and expense to plaintiff Bolt and other insureds in case no. A91-478-Civ., and related cases, or otherwise wherein plaintiff suffered humiliation, emotional distress, personal injury, loss, damage, injury, and expense due to acts orders and judgments negligently and maliciously entered by "judiciary defendants" without jurisdiction.

COUNT VIII - DECLARATORY JUDGMENT RELIEF

63. Plaintiff realleges and reincorporates paragraphs 1 to 63 herein.

64. Plaintiff seeks, as a matter of law, a declaratory judgment order declaring that "insurer defendants" and "insurer counsel defendants" willfully violated the statutory automatic stay provisions under 11 U.S.C. § 362(a) by filing a complaint in the district court in case no. A91-478-Civ. against defendant CRI who was fully protected by the automatic stay provisions of 11 U.S.C. § 362(a).

COUNT IV - DECLARATORY JUDGMENT RELIEF

65. Plaintiff realleges and reincorporates paragraphs 1 to 65 herein.

66. Plaintiff seeks, as a matter of law, a declaratory judgment order declaring that "insurer defendants" and "insurer counsel defendants" willfully violated the statutory automatic stay provisions under 11 U.S.C. § 362(a) continuing to by aggressively prosecute case no. A91-478-Civ. against insured defendant Bolt and other defendants protected by the automatic

stay after Bolt filed formal notice of his chapter 11 filing at docket no. 317 on August 27, 1993.

COUNT X - DECLARATORY JUDGMENT RELIEF

67. Plaintiff realleges and reincorporates paragraphs 1 to 67 herein.

68. Plaintiff seeks, as a matter of law, a declaratory judgment order declaring that "insurer defendants" and "insurer counsel defendants" willfully violated 11 U.S.C. § 362 and are liable for compensatory and punitive damages under 11 U.S.C. § 362(h).

COUNT XI - DECLARATORY JUDGMENT RELIEF

69. Plaintiff realleges and reincorporates paragraphs 1 to 69 herein.

70. Plaintiff seeks a declaratory judgment, as a matter of law, that the complaint filed by State Farm Insurance Company, an Illinois corporation, a non-existent party plaintiff, was "moot" and thus "void," making case A91-478-Civ. void and moot from the outset, and, as a matter of law, "judiciary defendants" were without jurisdiction to hear or decide any part of the "moot" case.

COUNT XII - DECLARATORY JUDGMENT RELIEF

71. Plaintiff realleges and reincorporates paragraphs 1 to 71 herein.

72. Plaintiff seeks a declaration, as a matter of law, that the district court was without jurisdiction to substitute "State Farm Fire and Casualty Company," into the case mid-way through the case, and for a declaration that the substitution involved collusive acts in violation of 28 U.S.C. § 1359 which defeated any jurisdiction of the district court to hear any part

of this "moot" case, and ass prevailing parties, insureds are entitled to just costs under 28 U.S.C. § 1919.

COUNT XIII - DECLARATORY JUDGMENT RELIEF

73. Plaintiff realleges and reincorporates paragraphs 1 to 73 herein.

74. Plaintiff seeks a declaration, as a matter of law, that the motion for summary judgment filed by "State Farm Fire and Casualty Company," was "moot" from the outset and thus void and without effect, since "State Farm Fire and Casualty Company" was not the plaintiff and had no standing to interject itself into the case at the time the motion for summary judgment was filed.

COUNT XIV - DECLARATORY JUDGMENT RELIEF

75. Plaintiff realleges and reincorporates paragraphs 1 to 75 herein.

76. Plaintiff seeks a declaration, as a matter of law, that Judge Singleton's order granting summary judgment was "moot," "void," and without effect since the case was "moot" for lack of jurisdiction from the outset, and the motion for summary judgment was "moot" when initiated by a non-party, without standing, in a "moot" case where the district court lacked jurisdiction from the outset.

COUNT XV - DECLARATORY JUDGMENT RELIEF

77. Plaintiff realleges and reincorporates paragraphs 1 to 77 herein.

78. Plaintiff seeks a declaration, as a matter of law, that plaintiffs are entitled, even in a "moot" case, to payment of all defense costs and attorneys fees and costs in answering and defending case no. A91-478-Civ. "at the request" of

insurer State Farm Fire and Casualty Company under the specific insurance policy Supplemental Payments provisions.

COUNT XVI - DECLARATORY JUDGMENT RELIEF

79. Plaintiff realleges and reincorporates paragraphs 1 to 79 herein.

80. Plaintiff seeks a declaration, as a matter of law, that "bar defendants" are jointly and severally, vicariously liable for all tortious acts, violation of law, and intentional misrepresentation, false arrest, false imprisonment, personal injury, emotional distress, undue force, verbal and physical abuse, outrageous and other misconduct acts by "judicial defendants," "insurer counsel defendants" who are "motivated to serve" their principal in order to further their principal's business and "enterprise." "Bar defendants" have failed to supervise or discipline bar members for their wrongful and tortious conduct which gives rise to joint and several, vicarious liability.

COUNT XVII - DECLARATORY JUDGMENT RELIEF

81. Plaintiff realleges and reincorporates paragraphs 1 to 81 herein.

82. Plaintiff seeks a declaration that "insurer defendants'" malicious acts, violation of law, intentional misrepresentation, fraud, and conspiracy constitutes acts of bad faith and breach of the duty of good faith and fair dealing with its insureds, giving rise to compensatory and punitive damages.

COUNT XVIII-DECLARATORY JUDGMENT RELIEF

83. Plaintiff realleges and reincorporates paragraphs 1 to 83 herein.

84. Plaintiff seeks a declaration that "judicial defendants" were arbitrary, capricious, and abused their

discretion by taking jurisdiction over case no. A91-478-Civ. and in continuing to allow non-existent and substituted parties to prosecute the case against debtors who were fully protected by 11 U.S.C. § 362.

COUNT XIX - CONVERSION

85. Plaintiff realleges and reincorporates paragraphs 1 to 85 herein.

86. Plaintiff seeks a declaratory judgment order that declares the initial restraining order of November 3, 1994, and amended restraining order of February 8, 1995, entered without jurisdiction, constitute acts of conversion by "judicial defendants," "insurer defendants," and "insurer counsel defendants."

COUNT XX - FALSE ARREST AND IMPRISONMENT

87. Plaintiff realleges and reincorporates paragraphs 1 to 87 herein.

88. Plaintiff seeks an order declaring Bolt's false arrest and imprisonment records be removed from both federal and state records and totally erased from the records.

COUNT XXI-Undue Force, Harassment & Verbal Abuse

89. Plaintiff realleges and reincorporates paragraphs 1 to 89 herein.

90. Plaintiff seeks a declaratory judgment order that "federal defendants," by falsely arresting and imprisoning plaintiff Bolt, used undue force, malicious harassment, and engaged in repeated verbal abuse, which violates plaintiff Bolt's constitutional rights.

COUNT XXII-RICO AND CONSUMER PROTECTION

91. Plaintiff realleges and reincorporates paragraphs 1 to 91 herein.

92. Plaintiff seeks monetary damages from "judiciary defendants," "insurer defendants," "insurer counsel defendants," and the "bar defendants" who operate as a legal instrumentality and enterprise, under the State of Alaska, for violations of the Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. § § 1961-1968 ("RICO"), and violations of the Hobbs Act, 18 U.S.C. § 1951, and Alaska consumer protection law, in their fraud, conspiracy, and scheme to defraud and the actual defrauding of insureds out of the insurance policy benefits bargained for, paid for, and expected. This illegal enterprise and pattern of illegal conduct has occurred and continues to occur on a wide scale basis in Alaska. Severe monetary damages are justified and sought, including treble damages.

Prayer for Monetary Damages and Other Relief

93. Plaintiff realleges and reincorporates paragraphs 1 to 93 herein.

94. Plaintiff prays for monetary damages and other relief as follows:

95. For all injunctive relief requested herein.

96. For all declaratory relief requested herein.

97. For judgment, jointly and severally, against all defendants for all compensatory damages to be proven before a jury trial, but not less than $3,000,000.

98. For judgment, jointly and severally, against all defendants for punitive damages to be tried and awarded by a jury trial for a minimum amount of $30,000,000.

99. For costs, fees, expenses, and all attorneys' costs, fees, and expenses available to plaintiff under the law as required in bringing and prosecuting this action.

100. For all other just relief and damage awards to be decided by a jury trial before this court.

Dated: April 5, 1995 /s/ Alex Wayne Bolt
Alex Wayne Bolt

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

State Farm Fire and Casualty	)	
Company, an Illinois corporation,	)	
Plaintiff,	)	
vs.	)	DC# A91-478-CV (JKS)
	)	
Alex Wayne Bolt, Audrey Ann Bolt)		
White Mountain Mining Partners,	)	
Nabesna Mining Partners, and	)	
Colorado Resources, Inc.	)	
Defendants.	)	

NOTICE OF FILING BANKRUPTCY

Notice is hereby given that defendant Wayne Bolt filed a Chapter 11, Debtor in Possession Petition for Bankruptcy in the U.S. Bankruptcy Court, Anchorage, Alaska, case no. A93-00619, on August 25, 1993, due to State Farm Fire and Casualty Company's bad faith, fraud, and tortious breach of contracts and agreements with defendant Wayne Bolt.

Dated: August 27, 1993 /s/ Wayne Bolt
Wayne Bolt